THE

History, and Reasons,

OF THE

Dependency of IRELAND

UPON THE

Imperial Crown

OF THE

Kingdom of ENGLAND.

Rectifying Mr. *Molineux*'s State of the Case of *Ireland*'s being bound by Acts of Parliament in *England*.

By William Atwood.

Actum erat de fœcundissimâ gente, Si libera fuisset. Plin. Panegyr.

LONDON,
Printed for *Dan. Brown* at the Black Swan and Bible without *Temple-Bar*; and *Ri. Smith* at the Angel without *Lincolns-Inn* Gate near the Fields, 1698.

BIBLIOTHECA·BODLEIANA

To the Honourable the Knights, Citizens, and Burgeſſes, in Parliament Aſſembled.

YOur Houſe, and they (a) *to whoſe Rights You ſucceed, having, for ſeveral Ages, been the Principal Support of the* Engliſh Monarchy; *the Enemies to ſo excellent a* Conſtitution *have thought it could never be more effectually undermined, than by the drawing your Rights into Queſtion: and thus have many made their deceitful Courts to* Princes.

(a) *Anciently there was but one Houſe and ſometimes one undivided Body* ſub dio. *Thus one of K.* Edgar's *Charters An.* 970. Non clam in angulo, ſed ſub Divo, palam evidentiſſimè ſcientibus totius regni mei Primatibus.

'Tis not for me to determine, whether Malice *or* Sycophantry *have induced ſome to deny, your*

a *being*

being in any manner invested with that Authority, which they officiously ascribe to the Kings *of this* Realm, *and their Council of* Lords, *or rather* Privy Council; *to the derogating from the* Lords *in* Parliament, *no less than from You.*

I conceive it, allowable for me, to joyn the Men of this assurance with Dr. Brady, *and other* Advocates *for* Despotick Power: *who have contended, that your first* Presence, *or* Representation, *in the* National Council, *began by Rebellion in the* (d) 49. *of* H. 3. *which being taken as proved, they conclude, that* Kings *may as well set you aside, as a*

(d) Dr. Brady's *Answer to Mr.* Petty l. p. 1, 2. *To rescue these sacred things from groundless and designing interpretations: I follow his own Method, and do affirm, 1. That the Commons of* England *represented by Knights, Citizens, and Burgesses in Parliament were not introduced, nor were one of the three Estates in Parliament before the 49th of* H. 3. *2. That before that time the body of the Commons of* England, *or Freemen as now understood or as we now frequently call them collectively taken, had not any share or votes in making of Laws for the government of the Kingdom, nor had any communication in Affairs of State, unless they were represented by the Tenants in Capite.*

Sub-

Subject may any obligation extorted by threats and dureſs.

And whoever has made any attempt towards the removing that Corner Stone for Tyranny, *has been ſure to incur the imputation of promoting* Anarchy: *as if your venerable Body did not in the leaſt interpoſe between thoſe two Extremes.*

The faireſt colour which the Men of Foreign Notions and Allegiance have, for their premiſes, is from King John's Charter, *which as they imagine, has declared or eſtabliſh'd the* Tenents *of the* Crown *in Chief, to be the only legal Members of the* Common Council *of the* Kingdom: *the far different ſenſe of which Charter, I may well ſay 'twas my fortune to find and evince, upon my*

firſt

(a) Vid Jani Anglor. facies nov. ed. An. 1680.

(b) Vid. Dr. Brady's Append. to his Compleat History cited in f.

(c) Dr. Brady's Introduct. f. 3. 6

(a) *first enquiry into the Nature of our Government; since the force of truth has obliged even* (b) Dr. Brady *to yield it up to me,* (c) *after all the hard Words which he had given me on that occasion.*

Speaking of Seditious Pieces design'd, as he says, to overturn the Government, and publish'd on purpose to usher in Anarchy and Confusion, (leaving a Blank for Mr. Petyt's *Name, whom he sufficiently describes) these and other such stuff, says, he did mightily contribute to the Sedition and Rebellious Practices of a* Great Man *who laid violent Hands upon himself to prevent the Hand and Stroak of Justice. And like to this Piece are* Jani Anglor. facies nova, Jus Anglorum ab antiquo, *Reflections upon* Antidotum Brit. *&c. All written and timed to promote Sedition and in expectation of Rebellion and the destruction of the Establish'd Government.*

(d) Jus Anglorum ab antiq.

Nor has he offered the least Shadow of Evidence against my List (d) *from* Domesday *Book; shewing, that notwithstanding the supposed* Conquest *of this Land by* W. 1. *they who had not forfeited their Estates, enjoyed them upon or under Titles Priour to his Entrance; without relation to any Grant, or Confirmation from him.*

Permit

Permit me to ſay, that the Reſearches in which this Controverſy engaged me, have, in ſome meaſure, enabled me to aſſert your Authority, in the higheſt Inſtances of the exerciſe of Power; aud to make out by Deduction, and numerous Preſidents, what you *have as 'twere by* Intuition; *that* Ireland, *as 'tis* annexed to the Imperial Crown *of this Kingdom; is ſubjected to that Authority, which is, and muſt be abſolute; and yet can never be gaievous, becauſe of your ſhare in it.*

Tho. the bold denial of this, has already receiv'd your juſt cenſure of being of dangerous Conſequence to the Crown, and People of *England: Yet, if I may uſe the Alluſion, I might obſerve, that 'tis not held improper to make* Comments *upon the* Sacred Text,

Votes, Lunæ, 27 Junii 1698.

Text, *to explain it to Vulgar Understandings: Which, I should hope, may plead in my Excuse, if not, Justification, while I am proving, that, as* you *have* rightfully *concurred with the* Lords, *in giving* Ireland *a King, by filling the* Vacant Throne; *and that* Glorious Preserver *of your Liberties has, with the* Advice *and* Consent *of the* States *of* this his Realm, *made Laws with a declared intention of binding* Ireland; *these Acts of* Sovereignty, *are not only agreeable to the Laws of Nature, and of Nations, but warranted by the* Ancient Constitution *of this* Monarchy.

Vid. Mat. Par. Addit. f. 281. De foris facturâ regni per Johannem, & regni vacatione per ejusdem demissionem in manus Papæ.

The foundation of which, while I have been labouring to clear, from that Rubbish which would render it unstable; it has happened with me, as with those, who having ex-

hauste

hauſted themſelves in working a rich Mine, are forced to leave the bright Oar to them that come after: And thus 'tis likely to be with thoſe Collections which I have by me, concerning the Fundamental *Conſtitution of this Government: by which I had flattered my ſelf, that I muſt have contributed towards the Peace and Happineſs of my Country, in ſhewing the admirable Harmony that there is between the* conſtituent parts *of this* Empire; *how ſtrong and beautiful they are in their due order; How conſpicuous that* Degree *of the* Baronage, *or* Nobility *of* Engl. *which* you're *preſent, has been in all the Ages of this* Monarchy, *in maintaining its Glory; what Perſuaſive Reaſons both* Prince *and* People *have, to be ſatisfied with their* ſeveral, *and yet* common

mon *Intereſts*; *and how little they are to be thought Friends to either, who prompt them, as the Learned* Grotius *has it,*

In partem non ſuam involare.

Whither I have been any way ſerviceable to the Publick, or can yet ſerve it, according to my Zeal; is ſubmitted to the Collective Wiſdom *of the Nation: The Judgment is with you; who, if you ſhould not think this, or any of my former* labourous Effects *of Idleneſs, as the Poet calls the Writing of Books, worthy of your Protection, or Notice; I doubt not will extend your Pardon, to Endeavours conſecrated to your uſe, By,*

Your Moſt Faithful and
Affectionate Humble Servant,

W. Atwood.

The Hiſtory, and Reaſons of the Dependency of Ireland, *upon the Imperial Crown of the Kingdom of* England, *&c.*

AS there's no need of ſtaying for Publick Authority or Encouragement, to oppoſe an open Invaſion upon the Rights of my Country; I cannot but think it my duty to make a ſtand, till better help come in, with Arms taken up on a ſudden; and that the rather, ſince by a ſhew of Precedents, and popular Poſitions, ſome lovers of *Engliſh Liberties* are drawn in, to join with the *Invaders*: nor do I wonder, to find Sufferers under Arbitrary Reigns, eaſy to be miſled, by a ſeeming * Advocate for *mankind*, who undertakes *the Cauſe of the whole Race of* Adam.

* *Mr.* Molineux *his Book*, p. 3. *I venture to expoſe my own weakneſs, rather than be wanting at this time to my Country, I might ſay indeed to mankind; for 'tis the Cauſe of the whole Race of* Adam *that I argue*, &c.

And yet to any man, who will be at the leaſt pains to think of Conſequences, 'twill be manifeſt, that the *Liberty* which the Gentleman, whom I oppoſe, contends for, *as the inherent Right of all mankind*, would be a total exemption from all Laws and Government, except ſuch as *Adam* had a right to in the ſtate of Nature: and, for want of knowing who has the title of Deſcent from him, would turn all Nations to ſuch Commonwealths, wherein every *Paterfamiliâs* is an independent Soveraign. If men were to be conſidered in ſuch a ſtate, I will agree with him, That *on whatſoever ground any one Nation can challenge Liberty to themſelves, on the ſame reaſon may the reſt of* Adam's *Children expect it.* Pag. 3.

But if this be taken with relation to the preſent Governments in the world; then, ſuppoſe this *Gentleman* hold a *Commonwealth* to be the freeſt ſtate of *mankind*; to be uniform, he muſt believe, that no *Monarchies* ought to continue longer than the people ſhould think fit: be-

becauſe, according to his Maxim, the People of a Monarchy have the ſame right to *Liberty* that the others maintain: and, directly to the preſent queſtion, no nation ought to have any dependence upon any other Nation. And, perhaps others will ſay, *neither ought they to have any protection.*

Vid. Plin. Pan. Quàm nunc juvat, provincias omnes in fidem noſtram deditionemq; veniſſe. Poſtquam contigit Princeps terrarum, &c.

'Tis certain, that whether we conſider the people of the ſame Nation, or the relation which one Nation has to another, their ſtate or condition, muſt depend upon Conſtitutions and Agreements, expreſs, or tacit. Indeed, what Conſtitutions and Agreements are binding, and for what time, will fall under the conſideration of Reaſon, either of it ſelf, or aided and aſſiſted by Revelation. S. *Paul* having taught us, That *the Powers that are are ordained of God*; I ſhould think that the *common practice of the world* (which this Gentleman admits to be againſt his Notions) is no ſmall evidence of the right of Acquiſitions made by one Nation upon, or over another: But if theſe could in right

Pag. 25.

* *'Tis only damage sustain'd that gives title to another man's goods.*

be carried no further, than the * *damage sustained* by the injured Nation; the bounds of the Acquisitions would be very uncertain, and desultory.

That no true Principle opposes the Power, which *England* claims and exercises, over *Ireland*, might be shewn in a very narrow compass: Yet when many glittering Arguments are made use of, to support an unseasonable as well as groundless complaint; it may be requisite to give direct Answers to those things which may seem most plausible; and to lay such Foundations as may supersede the particular consideration of the rest: to which end I shall shew,

1. The nature of Mr. *Molineux* his Complaint.

2. The true Foundation and Nature of that *Right*, of which *England* is possessed, in relation to *Ireland*; and Mr. *Molineux*'s Mistakes, Omissions, and wrong Comparisons, and Inferences, concerning it.

3. That the Right which was at first acquired, is so far from being de-

departed from, that 'tis rather ſtrengthened, and confirmed: and has been duly exerciſed, as the good of *England* has required, and in ſubordination to that: and, even in the greateſt Inſtances now complained of.

4. That his Politicks, and ſeeming popular Notions, are wrong, and miſapplied.

1ſt. Mr. *Molineux* would inſinuate into his * Majeſty's belief, in his *Dedication* to him, that ſome of late endeavour *to violate thoſe Rights* and Liberties, which the *Iriſh*, or *Engliſh* there, *have enjoyed for above five hundred years:* And he plainly enough charges, both *Kings*, *Lords*, and *Commons* of *England*, and that acting *Parliamentarily*, not only with this endeavour, but with actual violations of that, which to him ſeems, the inherent Right *of all mankind.*

* *Mr.* Molineux *his complaint againſt the Parliament of* England. Vid. *Dedication.*

His Service to *his Country*, and to *all the Race of Adam*, he ſuppoſes to be call'd for, by *the preſent juncture of Affairs, when the buſineſs of* Ireland *is under the conſideration of both Houſes of the Engliſh Parliament:* Pag. 3.

that is, as his Margin explains it, the Case of the *Bishop of* Derry *in the House of Lords, and the prohibiting the exportation of the* Irish *Woollen Manufacture, in the House of Commons.*

P. 64, & 66. He complains, That Acts of Parliament in *England*, before the 10*th* of *H.* 4. and 29*th* of *H.* 6. had pretended to bind *Ireland*, without any confirmation there, tho they have not expresly claim'd this Right;

P. 68, 99. that there are modern Precedents of *English* Acts of Parliament pretending to bind *Ireland:* but these are *Innovations*; tho, of his own shewing, no more than was done before the

P. 105. 10*th* of *H* 4. But he is *sorry to reflect*, that since the *late Revolution in these Kingdoms, when the Subjects of* England *have more strenuously than ever asserted their own Rights, and the Liberties of Parliaments, it has pleased them to bear harder on their poor Neighbours, than has ever yet been done in many Ages foregoing.*

P. 107. *Nay but one Throne, tho two Kingdoms.* The first attempt which this *Gentleman* complains of, since his Majesty's happy accession to the Throne

Throne of theſe Kingdoms, is an Act made, in great compaſſion, *for Relief of the Proteſtant Iriſh Clergy*: The next is one *prohibiting all Trade and Commerce with* France; while *England* was engaged in an actual War, of which *Ireland* was a miſerable Seat. Another is the Act *for the better ſecurity, and relief of their Majeſties Proteſtant Subjects in* Ireland; *wherein K.* James's *Iriſh Parliament at* Dublin, *and all Acts and Attainders done by them are declared void*: And 'tis further provided, *That no Proteſtant ſhall ſuffer any Prejudice in his Eſtate, or Office, by reaſon of his abſence out of* Ireland *ſince* December 25. 1685. *And that there ſhould be a remittal of the King's Quit-Rent from* Decemb. 25. 1688. *to the end of the War.* And the laſt is, That *for abrogating the Oath of Supremacy in* Ireland, *and appointing other Oaths.* P. 108. P. 111.

Theſe are the *Acts of Parliament, by the ſuppos'd ſubmiſſion to which,* he will have it, that *the Rights of the People of* Ireland *have received the greateſt weakening under his Majeſty's*

jesty's Reign, and they are made of all his Majesty's Subjects the most unfortunate. Pag. 114.

These Acts are complained of, as Violations of the Rights of a *Kingdom* (*a*) *compleat and absolute in it* (*b*) *self*, without any (*b*) *subordination* to *England*, especially in relation to *Parliaments:* That they are contrary to that (*c*) *amity* which should be maintained between *distinct Kingdoms*, or *the Children of one common Parent*; which *have distinct Rights, and Inheritances, absolutely within themselves: and* (*d*) *inconsistent with the Royalties, and Preeminence of a separate and distinct Kingdom.* (*e*) *Against the common Laws of* England, *which are in force both in* England *and* Ireland, *by the original Compact.* (*f*) *Against the Statute Laws both of* England *and* Ireland. (*g*) *Against several Charters of the Liberties granted to* Ireland. (*h*) *Against the King's Prerogative.* (*i*) *Against the practice of all former Ages.* (*k*) *Against several Resolutions of the learned Judges of former times.* Destructive of (*l*) *Property.*

(*a*) P. 128.
(*b*) P. 129, 133, 139.
(*c*) P. 147.
(*d*) P. 163.
(*e*) P. 154.
(*f*) P. 157.
(*g*) P. 161.
(*h*) P. 166.
(*i*) P. 168.
Vide Cont. sup. p. 64, & 66.
(*k*) P. 170.
(*l*) Ibid.

In-

Introductive of (*m*) *the greateſt confuſion, and uncertainty imaginable.* And laſtly, (*n*) *inconvenient* for *England*, being likely *to* (*o*) *make the Lords and People of* Ireland *think they are not well uſed, and may drive them into diſcontent.* And yet this Complaint muſt be thought very modeſt, becauſe, *if the Great Council of* England *ſhall reſolve the contrary*, he declares he ſhall *then* believe himſelf *to be in an Error, and with the loweſt ſubmiſſion ask pardon for his aſſurance.*

(*m*) P. 171.
(*n*) Ibid.
(*o*) P. 172.
Pag. 3.

I cannot in the leaſt queſtion, but that *auguſt and wiſe Aſſembly* will uſe that Method which he refers to for his Conviction: yet, ſince they are employed in Affairs of more immediate conſequence, than the aſſerting and clearing the grounds of that Authority which they have long been poſſeſſed of; I ſhall think that I may do ſome ſervice to my Country, in ſhewing,

2*ly*. The true Foundation of that Right, which *England* is poſſeſſed of, in relation to *Ireland*; and what are Mr. *Molineux*'s principal Miſtakes,

The true Foundation and Nature of the Right of England *over* Ireland.

Omiſ-

Omiſſions, and wrong Compariſons, and Inferences, concerning it. Here I hope to make it evident,

1. That he miſtakes the Grounds for the ſubmiſſion of *Ireland* to *H.* 2. as well as the Nature of it; and omits material Paſſages which may illuſtrate that matter.

2. That if he had been as converſant in *Hiſtories*, and *Records*, as he would be thought; he could never have had *aſſurance* enough to aſſert, that *England may be ſaid much more properly to be conquer'd by* W. 1. *than* Ireland *by* H. 2.

Vid. p. 3. P. 14.

3. That he is as much miſtaken in his compariſon between *Scotland* and *Ireland*; and that matter of his own ſhewing, or admiſſion, might have convinced him of an *eſſential difference.*

Pag. 6. *Of the firſt annexation of the Land of* Ireland *to the Crown of* England.

1. This *Gentleman* pretends to give the Hiſtory of the *Expedition of the Engliſh into Ireland*; which he ſuppoſes to have been in the Reign of *H.* 2. and that all the Right which has been acquired by *England*, to have any Government, or Superiority, over that Nation, was

was derived from within that King's Reign. Which manifeſts his having ſeen very little of our Engliſh Antiquities; and his not attending to what Iriſh Acts of Parliament might have taught him.

The Confeſſor's Law, under the Title *of the Rights and Appendages, or Dependencies, of the Crown of* England, expreſly names *Ireland* as one, which it ſuppoſes to have been firſt annexed to the Crown of *England* by King *Arthur*. Accordingly, beſides other Authorities which might be produced, a very Antient (*a*) Manuſcript in Latin Verſe in the *Cotton* Library, aſcribed to a *Gildas*, who lived in the Year 860. ſpeaking of ſeveral things done by that King in this Britiſh Kingdom, ſays;

Lambard's Archainomia, f. 148. de Jure & Appendiciis Coronæ Regni Britanniæ.

(*a*) Biblioth. Cot. ſub effigie Julii. B. 11.

His ita diſpoſitis in regnum tendit Y-
(bernum.

" Theſe things thus ſettled, he for
(*Ireland* goes.

Another (*b*) Manuſcript in the *Cotton* Library, treating of the number

(*b*) Claudius. D. 2.

ber of the Counties of *England*, and the *Countrys*, and *Islands*, which *of Right*, and *without doubt*, belong *to the Crown, and Dignity of the Kingdom of* Britain, and the several Laws or Customs, by which they were governed; among the places subject to the *Danelege*, mentions *Man*, the *Orcades*, (c) *Gurth*, and the *other Islands* of the *Western Ocean*, about or in the way towards *Norway*, and *Danemark*: within which we may well think *Ireland* to have been meant, since the *Isle of Man* is one of the Islands, there taken to be about, bordering upon, or in the Road to *Norway*, and *Denmark*.

Na.

(c) Guernsey, *as I take it.*

Circa ἐν κύκλῳ.

Tho the *Confessor's* Law places the Foundation of the Right of the Crown of *England* to *Ireland*, in the acquisition of King *Arthur*; it must be agreed, that this was so antiquated, and so many Changes had happened in the State of this Nation, between his time and King *Edgar's*, that he might well have no regard to any Right from King *Arthur*: And, however, might suppose himself to have been the first of

of the *Anglo-Saxon* Kings, who had ſubjected *Ireland*, or *the greateſt part of it*, to *the Crown of England*; which that he did, we have the Teſtimony of his memorable Charter.

Ego Eadgarus Anglorum Baſilius, omniumq; Regum inſularum, quæ Britanniam circumjacent, cunctarumq; nationum quæ infra eam includuntur, Imperator, & Dominus; Gratias ago Deo Omnipotenti Regi meo, qui meum Imperium ſic ampliavit, & exaltavit, ſuper Regnum patrum meorum; qui, licet Monarchiam totius Angliæ adepti ſunt, à tempore Ayelſtani, qui, primus Regum Anglorum, Nationes quæ Britanniam incolunt ſibi armis ſubegit: nullus

I Edgar, *King of the* Engliſh, *and Emperor and Lord of all the Kings of the Iſlands which lie about* Britain, *and of all Nations that are included within it, give Thanks to God Almighty my King, who hath ſo inlarged and exalted my Kingdom above the Kingdom of my Anceſtors; who, altho they had gain'd the Monarchy of all* England, *from the time of King* Athelſtan, *who was the firſt of the Kings of the* Engliſh *that brought under him by Arms the Nations which inhabit* Britain: *yet none of*

Rot. Cart. 5. E. 2 m. 12. n. 25. & 3 E. 3. m. 10. n. 23. Pro Priore & Conventu Wigorn. per inſpeximus. An. 964. regni ſui 6.

nullus tamen eorum ultra ejus fines, Imperium ſuum dilatare aggreſſus eſt. Mihi autem conceſſit propitia divinitas, cum Anglorum imperio, omnia Regna Inſularum Oceani, cum ſuis ferociſſimis Regulis, uſque Norvegiam, maximamque partem Hiberniæ, cum ſuâ nobiliſſimâ civitate Dubliniâ, Anglorum regno ſubjacere. Quos etiam Armis meis imperiis colla ſubdere, Dei juvante gratiâ, coegi.

of them attempted to ſtretch his Empire beyond its bounds. But the propitious Divinity has granted me, with the Empire of the Engliſh, *to put under the Dominion of the* Engliſh, *all the Kingdoms of the Iſles of the Ocean, with their fierceſt little Kings, as far as* Norway, *and the greateſt part of* Ireland, *with its moſt noble City* Dublin: *Even all thoſe, by the help of God's Grace, I have compell'd to ſubmit their Necks to my Commands.*

From this time 'twill be evident, to any who obſerve the ſtiles of our Kings, till *H.* II's time, that the Authority of *England* over *Ireland* was taken to be included under the ſtile of King of the Engliſh Saxons, of *Britain*, of the Iſland of *Albion*, or the like: not but that, for ſeveral Reigns

Reigns before the time of *H.* II. Parliaments, in which the King's Charters paſs'd, were often careful to have the ſtile more expreſſive of the Title to the Dominions out of *England*. For inſtances of both kinds:

Edgar, after the Charter above cited ſtiles himſelf,

Baſileus dilectæ Inſulæ Albionis, ſubditis nobis ſceptris Regum Scottorum, Cumbrorumque ac Britonum, & omnium circumcirca Regionum.	*King of the Beloved Iſland of* Albion, *the Scepters of the Kings of the* Scots, *the* Cumbers, *and the* Britons, *being ſubject to us, and of all the Regions round about.*	Rot. Pat. 12, E. 2. m. 13, n. 42. Rot. Cart. 2, E. 3. m. 23, n. 78. An. 970. & Cart. Antiq. in Turr. Lond. E. n. 11.

In another;

(*a*) Baſileus Anglorum, & Imperator Regum Gentium.	*King of the Engliſh, and Emperor of the Kings of Nations.*	(*a*) Rot. Cart. 5. E. 2. m. 13, n. 25.

After this King *Ethelred* ſtiles himſelf ſometimes;

(*b*) Ego Adelred totius Albionis Monarchiam gubernans.	*I* Athelred *governing the Monarchy of all* Albion.	(*b*) Rot. Cart. 5. E. 3. m. 19, n. 17. per Prior & Convent. ſanctæ Friſcheſwide, Oxon. An. 1084. regni 25.

Subſcribes,

Rex Anglorum.	*King of the Engliſh.*

Sometimes,

(*a*) Rot. Cart. 5. E. 3. m. 32. n. 85. A. 979.

(*a*) Ego Athelred totius Britanniæ Basileus.

I Athelred *King of all* Britain.

Sometimes,

(*b*) Rot. Cart. 36. E. 3. m. 7. n. 3. A. 964.

(*b*) Ego Ethelred Britanniæ totius Anglorum Monarchus.

I Ethelred *Monarch of all the* Britain *of the Engliſh.*

Sometimes,

(*c*) In Bib. Cot. An. 1001.

(*c*) Ego Ethelred totius Inſulæ.

I Ethelred *King of the whole Iſland.*

Subſcribes,

Rex & Rector Angulſexna.

King and Ruler of the Anglo-Saxons.

That *Ireland* and other Kingdoms and Dominions, were included within this ſtile, will appear by other Charters of the ſame King. Thus he ſtiles himſelf,

(*d*) Monaſt. 1. vol. f. 94. a. A. 983.

(*d*) Totius Anglorum Gentis Baſileos, cæterarumque Nationum in circuitu perſiſtentium, primatum gerens.

King of all the Engliſh Nation, and having the Supremacy over the other Nations living round about.

At

At another time he ſtiles himſelf;

(*a*) Ego Ethelred Rex Anglorum, aliarumque gentium in circuitu perſiſtentium.

I Ethelred *King of the* Engliſh, *and other Nations living round about.*

(*a*) Rot. Cart. 5. E. 3. m. 32. n. 85. pars unica. A. 987.

And the ſame ſtile (*b*) he uſes in the Year 1001. tho, as appears above, in another Charter of the ſame Year, he ſtiles himſelf only *King of the whole Iſland.* And in another, (*c*) at the beginning of his Reign, only *King of the Engliſh.*

(*b*) Hiſt. Elyens. in Bib. Cotton.

(*c*) Vid. Rot. Cart. 2. R. 2. m. 13. n. 5. Bib. Cot. ſub effig. Claudii c. 9. Hiſt. Eccleſ. Abind. Cart. Antiq. B. n. 4. K. n. 22.

W. I. generally ſtiles himſelf no more than *King of the Engliſh*, or *King of the Engliſh*, and *Duke of Normandy.* Yet, as one of his Charters has it, he was (*d*) *the moſt powerful of all the Kings of that time, ruling the greateſt Empire of* England. That other Nations were then held to be Dependencies upon the Kingdom of *England*, appears by a Charter of his in the 15*th* of his Reign, which begins;

(*d*) Cartæ Antiquæ in Turri Lond. D. n. 12. Cœnob. de Salebia.

(*e*) Ego Gulielmus Deo diſponente rex Anglorum, cæterarumque gentium circ-

I William *by God's Diſpoſal King of the* Engliſh, *and Ruler of the reſt of the Nations round*

(*e*) Cart. Antiq. Q. n. 2. An. 1081.

circumquaq; perſi-ſtentium Rector, & Dux Normannorū.

round about, and Duke of Normandy.

After his time his Succeſſors, till *H.* 2. left the Dependencies of *England* out of their Stile, adding only other Dominions, which they had as diſtinct and independent.

Thus *H.* 1. to mention no other, ſtiles himſelf *King* of the *Engliſh*, and *Duke* of *Normandy*; but before the death of his Brother *Robert*, only * *King* of the *Engliſh*.

* Bib. Cot. ſub Effigie Claudii 9 Regiſt. Abind. *dehund.* de Hormmere.

Not here to bring other Evidences, of the continuance of the Superiority over *Ireland*; to turn † Mr. *Molineux* his Argument upon him, if I ſhew the *Church* of *Ireland* to have been then dependent upon, or under the *Church* of *England*, he muſt not deny but the State was too.

Of the Superiority and Authority of the Church of England *over the Church of* Ireland.

Archbiſhop *Parker*, who muſt be allowed to have ſeen and underſtood the Evidences of the Rights of the *See* of *Canterbury*, and is agreed to be

* Parker's *Antiq. Brit.* Et quiq; Nobiles cum Clero.

† P. 129. *If our Church be free and abſolute within it ſelf, our State muſt be ſo too.*

be a faithful *Collector*, ſpeaking of the time of *H.* 1. ſhews, that upon the vacancy of the Biſhoprick of *Waterford*, *Murchertach* King of *Ireland*, with *the Biſhops*, *all the Nobility*, and the *Clergy*, and *People* of the Iſland, ſent to *Anſelm* Archbiſhop of *Canterbury*, deſiring

Quatenus ipſe, primatûs quem ſuper eos gerebat poteſtate, & quâ fungebatur Apoſtolicâ fretus Authoritate, ſanctæ Chriſtianitati, ac neceſſariæ plebium utilitati eis ſubveniret.

That by the Power of the Supremacy *which he had over them, and the Apoſtolical Authority which he enjoyed, he would be aiding to holy Chriſtianity, and the neceſſities of the people.*

* At their *requeſt*, he upon the death of the Biſhop of *Dublin*, conſecrated one *Malchus*, whoſe Biſhoprick † Pope *Eugenius* raiſed into an *Arbiſhoprick*: But notwithſtanding the Popes, *Eugenius* and *Adrian*, had conſtituted Archbiſhops there; yet they all acknowledged || the *Supremacy* of the See of *Canterbury in all things*.

* Petitioni eorum Annuit.

† Fo. 23. Ann. 1151.

Ibid.

|| Ib. F. 23. Nihilominus Cant. Primatem in omnibus agnoſcunt.

And after Archbiſhop *Parker* had enumerated 33 *Biſhopricks* in *Ireland*, he adds,

* Antiq. Brit. ſub. * Hi omnes 33 Epiſcopatus, uſitato & antiquiſſimo regni jure, ac inſtituto, Cantuar. ſedi ut Metropoli parent.

All theſe 33 Biſhopricks, by the accuſtomed and moſt antient Right and Conſtitution of the Kingdom, obey the See of Canterbury *as the Metropolis.*

If it were doubtful whether he meant that this *Right* was, by the antient *Conſtitution* of the Kingdom of *England*, the former Authorities make it evident that it was. However I ſhall confirm them with two more.

Inter decem ſcript. Gerv. Dorob. Actus Pontif. Cant. F. 1633. Ann. 605.

Gervace of *Canterbury*, who lived in the time of *H.* 2. ſpeaking of *Lawrence* Archbiſhop of *Canterbury*, who ſucceeded the reputed *Engliſh* Apoſtle *Auſtin*, ſays,

Nec non & Scothorū qui Hiberniam inſulam Britanniæ proximam incolunt, paſtoralem impendere ſollicitudinem curabat.

He not only took care of the *new Church* gathered out of the *Engliſh*,

but

but of the *old Britiſh Inhabitants*; and alſo took care of his *paſtoral Charge over the Scots*, who inhabit *Ireland*, an Iſland very near *Britain*.

Bromton, an Author who is cited by Mr. *Molineux*, mentioning the Diſpute about *Superiority*, in the *Great Council*, or *Parliament* at *Wincheſter*, in the beginning of the Reign of *W.* 1. between *Lanfranc* Archbiſhop of *Canterbury*, and the then Archbiſhop of *York*, ſays *,

Brompton, F. 970, 971. de An. 1071.

* *Not that the whole Hiſtory need have been read in the Council, but the chief Paſſages produced by them who had read it.*

Ubi Hiſtoria Bedæ perlecta, monſtratum eſt, à tempore primi Auguſtini uſque ad ultima Bedæ tempora, quod circiter centum quadraginta annos erat, Cantuar. Arch. primatum ſuper totam Britanniæ Inſulam, & Hiberniæ geſſiſſe.

Where the Hiſtory of Bede *having been read*, 'twas *ſhewn that from* Auſtin's *firſt coming to the end of* Bede, *which was about* 140 *years, the Archbiſhop of* Canterbury *held the Primacy over the whole Iſland of* Britain, *and of* Ireland.

Thus I think 'tis paſt diſpute, that a ſuperiority of Government,

both in *Church* and *State*, was vested with the *English*, and by consequence in the Crown of *England* as the *Head*, from the *6th* of King *Edgar* at the latest, to the year 1151. when the Jurisdiction of *Anselm* Archbishop of *Canterbury* was submitted to by the *Irish*, as the antient and undoubted Right of that See.

Nor can it be imagined, without some account of the Circumstances, that the Superiority and Authority of *England* should have been lost in less than 22 years, when Mr. *M.* supposes the Pretensions of *England* to have had their first ground.

P. 8. An. 1172.

P. 6, 7, 8. *Of* H. 2d's *landing in* Ireland.

He will have *H.* 2. his landing in *Ireland*, to have been occasioned only by a fortunate Expedition thither by some of his Subjects a little before; in assistance of some of the Princes, or Kings of *Ireland*, who had been oppress'd by a too powerful Neighbour; and would insinuate as if the *Deliverers* were only entituled to be paid for the assistance which they gave: and he is so bountiful,

tiful, as to *allow that* England *ought to be repaid all their Expences in ſuppreſſing the late Rebellion.* P. 144.

But, as *England* has ſuppreſt that Rebellion againſt the *Engliſh Crown*, it appears by what has been above cited, that the diſputes between the Kings of *Ireland* only gave *H.* 2. opportunity, and encouragement, to aſſert the Authority of the *Engliſh Nation*, and to reſtore to the Crown the poſſeſſion of the City of *Dublin*, and ſo much of the *Engliſh Pale* as could then be gained, with ſuch addition as they could make in a juſt War, to ſecure thoſe Bounds which had been invaded, and uſurped upon by a barbarous Enemy.

The juſtification of H. 2d's *Expedition.*

In this *H.* 2. was not to be blamed, for that Ambition which has carried Princes to make *Conqueſts*; ſince his Expedition was no more than he was obliged to as *King* of *England*: For as the *Confeſſor*'s Law has it,

Debet

Lambard's Archaionomia, *F.* 138. De Regis Officio, &c.

Debet vero de jure Rex omnes terras, & honores, omnes dignitates, & jura, & libertates coronæ regni hujus, in integrum, cum omni integritate, & ſine diminutione, obſervare, & defendere; diſperſa, & dilapidata, & omiſſa, regni jura, in priſtinum ſtatum & debitum, viribus omnibus revocare.

But the King ought of right *to keep and defend all the Lands, and Honours, all Dignities, & Rights, and Liberties, of the Crown of this Kingdom, with all integrity, and without diminution: with all his might, to bring back to the antient and due ſtate, the diſperſed, dilapidated, and loſt Rights of the Kingdom.*

This was not only incumbent upon the Prince, but upon the People alſo, who were *ſworn Brethren to defend the Kingdom* againſt Strangers, and againſt Enemies, together with their Lord and King; and *with him*, to keep *his Lands*, and *Honours*, with all Fidelity.

Vid. Leges St. Edw. Tit. Greve.

Accordingly, when the Pope cited *E.* 1. to anſwer judicially before him, concerning his Right over *Scotland*, the *Parliament* ſay,

"The

" The Premiſes would manifeſt- *Ryley's* Placita Parl. 29 E. 1.
" ly turn to the *diſheriſon of the*
" *Right of the Crown of the King-*
" *dom of* England, and of the *Royal*
" *Dignity*, and *notorious ſubverſion*
" *of the ſtate of the ſaid Kingdom:*
" And alſo to the prejudice of *the*
" *Liberties*, the *Cuſtoms*, and *Laws*
" *of our Anceſtors.* To the obſer-
" vation of which we *are bound,*
" *by virtue of the Oath we have tak-*
" *en*; and *which we will maintain*
" *with all our Power, and, by God's*
" *aſſiſtance, will defend, with all our*
" *might. Nor alſo do we, or can we,*
" *as indeed we may not, ſuffer our*
" *Lord the King, even tho he would,*
" to do, *or in any wiſe attempt the*
" *Premiſes*, &c.

Here's a ground to juſtify *H.* 2. and the *People* of *England* at that time; which *this Gentleman* never thought of.

And *Giraldus Cambrenſis*, an Author received by him, and an *Iriſh* Parliament, has ſhewn another, from the nature of the *Iriſh*, the neceſſity of their Reformation, and that Authority Vid. Inf.

thority which the generality of Christians in those dark Ages placed in the Pope.

As to the Character of the People, after *Girald* had condemned their Clergy, for not doing their duty among them, he says,

Anglia sacra, Giraldus Cambrensis de rebus a se gestis, Pars 2. c. 14.

Ut enim de perjuriis eorum, & proditionibus, de furtis, & latrociniis, quibus totus hic populus prope modum, immoprætermodum, indulget; de vitiis variis & immunditiis nimis onormibus, quas topographia declarat, ex toto non emittamus; Gens hæc Gens spurcissima, Gens vitiis involutissima, Gens omnium Gentium in fidei rudimentis incultissima.

For not wholly to omit speaking of their Perjuries *and Treasons, of the Thefts and Robberies which this whole people in some measure, rather without measure, indulges; of their various vices and uncleannesses too enormous, which our* Topography *declares; This Nation is a Nation most vile, a Nation the most drown'd in Vices, a Nation of all Nations the most ignorant in the Rudiments of Religion.*

This being the nature of the People at that time, there might seem, if

if there had been no prior Title, to have been as much a right of *occupancy*, as any Nation has had by the firſt poſſeſſing the Lands of Savages: but if the right of civilizing the barbarous part of Mankind was not ſufficient, that Power which the then general conſent of Nations had placed in the Pope, joined with the other, made a Title, which none but the Barbarians then diſputed. This *H.* 2. had amply and formally.

Giraldus Cambrenſis not only informs us, that the *Pope* gave *H.* 2. licence to ſubdue the *Iriſh*, but exhibits the *Bull* at large, which, reciting the King's Intention of entring the *Iſland* of *Ireland*,

Angl. ſac. ſup. pars 2. F. 485. *ſpeaking of King* John, Pater ipſius intrandi Hiberniam, ſibiq; ſubjugandi, ab eccleſia Romana licentiam impetravit.

Ad ſubdendum populum illum legibus, & vitiorum plantaria inde extirpanda, & de ſingulis domibus annuam unius denarii B. Petro velle ſolvere penſionem, & jura

To ſubdue that people to Laws, and extirpate the plantations of Vices from thence; and that he will pay to St. Peter *the annual Penſion of a Penny out of every Houſe, and preſerve*

jura Ecclesiarum terræ illius illibata & integra conservare;

serve the Rights of the Churches of that Land unprejudiced and entire;

Pro dilatandis Ecclesiæ terminis, &c.

Declares the Pope's approbation of that King's attempting that Island, *for enlarging the bounds of the Church, for restraining the course of Vices, for correcting their Manners, and sowing Virtues, for the encrease of the Christian Religion.*

And this Pope desires the King's purpose may take effect, for *the Honour of God, and Salvation of that Land*; and that the People of that *Land* should receive him honourably, and reverence him *as their Lord.*

Jure nimirum e contrario illibato & integro permanente, & salva B. Petro & S. R. E. de singulis domibus unius denarii pensione.

The Right however remaining unprejudiced and entire, and saving to St. Peter, *and the holy Church of* Rome, *the pension of a Penny out of every House.*

The

The Right of the Church was hereby reſerv'd unprejudiced: the Recital ſeems to make it to relate to the particular Churches; and this Mr. *Molineux*, if he pleaſe, may take to amount to ſuch a Freedom, as exempted them from the Juriſdiction of the Pope, as well as of the See of *Canterbury*: but he may eaſily obſerve that the Superiority of both is fully reſerved, and implied under *jure illibato & integro permanente*.

V. p. 129. *Holy Church ſhall be free*, &c. *If our Church be free and abſolute within it ſelf, our State muſt be ſo likewiſe.*

It thus appearing, that this Gentleman had not attended to the true grounds of *H. 2d's* Attempt upon *Ireland*, I ſhall conſider what Submiſſion the Iriſh made to him, and in what ſenſe he and his Parliament took it. 'Tis evident beyond contradiction, that they did not ſubmit to him as to a King, whom they choſe to govern according to their own Laws, but as one that impoſed, and was to impoſe Laws upon them: Of this Mr. *Molineux* ſeems ſo much aware, that where he ſpeaks of the ſubmitting to *H.* 2. he only mentions the general terms of receiving him

P. 10, & 11.

him for *King and Lord* of *Ireland*, and ſwearing Allegiance to him and his Heirs, or the like: but the ſwearing to the Laws of *England* he places among the *Conceſſions*; as if they were no otherwiſe ſubject to them than the People of *England*.

P. 28.

Of the Submiſſion of the Iriſh to H. 2.

'Tis to be obſerved, for proof that the Submiſſion was truly voluntary, and that there was ſuch a Conſent as is eſſential to the making Laws to bind Poſterity; that upon *H.* 2's landing at *Waterford*, ſeveral of the Iriſh Kings, and almoſt all the Nobility of *Ireland* flock'd in to him; that the Archbiſhops, Biſhops, and Abbats of all *Ireland* receiv'd him for *King and Lord* of *Ireland*, and ſwore to him and his Heirs, binding themſelves by their Charters to perpetual Allegiance; and that after their example, and in like manner, the Kings and Princes there preſent receiv'd him for Lord and King of *Ireland*.

V. p. 10. *Cited by him.*

Upon which I need not obſerve the known difference taken in *Pliny*, and other good Authors, between *Dominus* and *Princeps*; ſince after this

this the King held a Council at *Lismore*, cited by this Gentleman in a wrong place. P. 28.

Ubi leges Angliæ sunt ab omnibus gratanter receptæ & juratoriâ cautione confirmatæ.

Where the Laws of England *are thankfully received of all, and confirm'd by a juratory Caution.*

And for a farther Security, the King posseſt himself of several Cities and Castles, which he put into safe hands; but of this Mr. *M.* takes no notice. Mat. Par. ib. Urbes & Castella quæ Rex in sua recepe-rat, sub fideli custodia deputavit.

As a cotemporary Expoſition is ever of greateſt Authority, let's see whether the meaning of this was, that *Ireland* was to be governd by Parliaments of its own, as *free and independent* as *England*; or that it should be governed by the Laws *made*, and *to be made*, by *England*.

Mr. *Molineux* confeſſes, that *H.* II. within five years after his Return from *Ireland* created his younger Son *John* King of *Ireland*, at a Parliament held at *Oxford*: he might have learn'd from the same Author- P. 29.

rity, that in that Parliament he not only disposed of several petty Kingdoms there, to hold of him and *John* his Son, but *Hoveden* has these words, which comprehend Lands as well as Governments.

Hoveden. f. 323.

F. 324.

Postquam autem Dominus Rex apud Oxenford, in prædicto modo, terras Hiberniæ & earum servitia divisisset; fecit omnes quibus earundem custodias commisserat, homines suos & Johannis filii sui devenire.

But after the Lord the King had at Oxford, *in manner aforesaid, divided the Lands of* Ireland *and their Services; he caused all those, to whom he had committed the Custody of them, to do homage to him and his Son* John, *& to swear Allegiance and Fidelity to them.*

Int. Decem script. Bromton de eod. An.

Bromton says;

Apud Oxoniam idem Rex Angliæ Johannem filium suum, coram Episc. & regni sui Princip. Regem Hiberniæ constituit. Et postea fecit quosdam familiares suos sibi & Johanni filio suo ligantias, fidelitates &

At Oxford *the said King constituted his Son* John *King of* Ireland, *before the Bishops and Princes of his Kingdom. And afterwards he made some of his Courtiers to do and swear Allegiance, Fidelity, and Homage to himself and*

& homagia, contra omnes homines, facere & jurare. Quibus terras Hiberniæ dedit & distribuit in hunc modum, &c.

and his Son John, *against all men: To whom he gave and distributed the Lands of* Ireland *in this manner*, &c.

If what the King did in a Parliament was a Parliamentary Act, here was an Act of the English Parliament, which, by Mr. *Molineux*'s Confession, *impos'd a King upon Ireland*, to whom they had not sworn any otherwise than as they swore to submit to the English Laws: and he should have observed, that herein, according to his own inference, of the making *Ireland* a separate Kingdom, the English Parliament undertook to discharge the Oath which the Irish had taken to be true to *H.* 2. and his Heirs; and suitably to the Legislative Authority over *Ireland* in this Particular, the same Parliament at *Oxford* disposed of and distributed the Lands of *Ireland*, without expecting any Ratification from thence.

Vid. Inf. *In truth he was but Viceroy.*

V. p. 10. Jurantes ei & hæredibus suis

Here's a Parliamentary and co-

temporary Expoſition, of what this
P. 154. Gentleman calls the *Original Compact* between *England* and *Ireland*.

I muſt agree, tho he has not obſerv'd it, that notwithſtanding *H.* II's Acquiſition in *Ireland*, an Iriſh Native had quiet poſſeſſion of a Kingdom which he ſeem'd to claim as chief King over the Iriſh. This was *Roderic* King of *Connaught*, who upon paying his Tribute, and performing his appointed Service, was, (*a*) according to *Hoveden*, to hold his Land as he held it before *H.* II. enter'd *Ireland*: which could not be true in a ſtrict ſenſe, unleſs he were dependent upon the Crown of *England* before; and however, this was a Grant after a more abſolute Acquiſition: and (*b*) three years after, *Girald* holds, as do the Iriſh Statutes, that he had (*c*) conquer'd the whole Land of *Ireland*.

(*a*) Hoveden. f. 312. Sicut tenuit antequam dominus Rex intravit Hib.
(*b*) An. 1175.
(*c*) Gir. Cambr. expug. Hib. c. 34. de An. 1177. Anno primo quo illuſtriſſimus Anglor. R. & Hib. triumphator, ipſam inſulam acquiſivit.

(*d*) Abbat *Benedict*, an Author of that time, to be ſeen in the *Cotton* Library, ſpeaking of *H.* II. ſays,

(*d*) Benedict. Abbas, p. 69. *cited in* Dr. Bradey's *Append.* f. 39.

Concedit Roderico ligio ſuo Regi Conautæ, quamdiu ei ſide-

He grants to Roderic *his Leige-man, King of* Connaught, *that*

fideliter ſerviet, ut ſit Rex ſub eo, paratus ad ſervitium ſuum: ſalvo in omnibus jure & honore Domini Regis Angliæ, & ſuo.

that as long as he faithfully ſerved him, he ſhould be a King under him, ready for his Service: ſaving in all things the Right and Honour of the Lord the King of England, *and his.*

As it appears by Record, by the 7*th* of King *John*, the King of *Connaught* had two thirds duly taken from him, for not performing his Service; or elſe he never had more than a third of that Kingdom granted; for then he acknowledged that he held a 3*d* part in the name of a Barony, and for the other two thirds proffers the King,

Rot. Clauſ. 7. Jo. m. 5.

Nomine Baroniæ.

Duos Cantredos, cum Nativis eorundem Cantredorum, de prædictis duabus partibus, ad firmandum in eis, vel faciendum inde voluntatem ſuam.

Two Cantreds, with the Natives of thoſe Cantreds, *to let 'em to farm, or to do with them what he pleaſed.*

Thus I take it, his Kingdom was as much dependent upon the Crown

of *England*, as any Barony in *Ireland*, or *England*, and as subject to Forfeiture.

Davis Rep. f. 38.

And 'tis probable, that this King was the head of the *O Conoghors* of *Connaught*, who are, 3 *E.* 2. admitted to be entituled to the Engliſh Law.

But tho the Law of *England* was not current beyond the Engliſh Pale, or thoſe *Cantreds* and Diviſions of *Iriſh*, who continued under Obedience to the Engliſh; yet the Crown of *England* has, from very antient times, not only laid claim to the Lordſhip over the whole Land of *Ireland*, but their Parliaments have recognized this Right more than once.

Of the Antiquity of the Right of the Crown of England *to the Land of* Ireland, *recognized by Parliaments there.*

Mr. *M.* if he had pleaſed, might have found, that Acts of Parliament made in *Ireland* lay a much earlier Foundation of the Right of the Crown of *England* to the Land of *Ireland*, even than our Confeſſor's Law does. A Statute made in *Ireland*, 1 *Eliz.* among *ſundry Titles, which the antient Chronicles in the Latin, Engliſh and Iriſh Tongues, alledge for the Kings of* England *to*

Stat. 11 Eliz. Seſ. 3. c. 1. f. 273.

the

the Land of Ireland, derives one from *Gormond* Son of *Belin*, King of *Great Britain*.

This King our Hiſtorians call *Gurgunſtus*, and is ſaid to have reign'd in *Great Britain* 375 years before the *Chriſtian Æra*. *Grafton*, agreeing with the Iriſh Statute, tells us, that in his return from *Denmark*, he met with a Fleet of *Spaniards*, which were ſeeking for Habitations, to whom the King granted the Iſle of *Ireland* to inhabit, and *to hold of him as their Sovereign Lord*. Grafton de an. ante Chriſtum 375. De eod. an.

The Statute made in *Ireland*, 13 C. 2. recognizing his Title, has theſe words; "Recognitions of this "nature may ſeem unneceſſary "where your Majeſty's Title to "this your Realm is ſo clear, as "that it is avowed in *ſundry Acts* "*of Parliament heretofore made* "*within this Kingdom, in the times* "*of your Majeſty's Royal Progenitors* "of famous memory: and SO ANCIENT, AS IT IS DEDUCED "NOT ONLY FROM THE "DAYS OF KING *H.* 2. your "Majeſty's Royal Anceſtor, BUT "FROM *Iriſh Stat.* f. 493.

" FROM TIMES FAR MORE
" ANTIENT, AS BY SUNDRY
" AUTHENTICK EVIDENCES
" MENTIONED IN THE SAID
" ACTS, AND RECORDS OF
" THIS YOUR MAJESTY'S KING-
" DOM, MAY EVIDENTLY APPEAR.

Since Mr. *Molineux* allows Acts of Parliament made in *Ireland*, to have full Authority; I hope he will confeſs, that he has given a very imperfect and undue account how *Ireland* became a Kingdom annexed to the Crown of *England*; and thus, not here to obſerve that he need not have gone ſo far back to ſhew how it firſt became a Kingdom, I think I have made it evident, that he has fail'd in his firſt Undertaking.

P. 4.

Of the compariſon between W. 1. *and* H. 2. *and of the ſtile and notion of* Conqueſt.

2. 'Twill be as evident, that he is no leſs injurious to the Right of the Engliſh Nation, than unhappy in the compariſon, where he maintains, that England *may be ſaid much more properly to be conquer'd by* W. 1. *than* Ireland *by* H. 2. tho in this he has the Authority of Sir *John Davis*. I will agree, that the word *Conqueſt* was in the times both of *W.* 1. and *H.* 2.

Davis's Rep. f. 41. *Caſe de* Taniſtry.

H. 2. of a very innocent ſignification; for which he rightly cites Sir *Henry Spelman*, and might have obſerved a much greater and antienter Authority, in a Record of the time of King *John*, referr'd to by (*a*) Mr. *Petyt*: wherein a younger Brother, in a Suit between him and his elder Brother about Title to Land, pleads, that his Father had it *de Conqueſtu ſuo*, and gave it him; according to the diſtinction in *Glanvil*, who wrote in the time of *H.* 2. between (*b*) *Queſtus*, the ſame with *Conqueſtus*, and *Hæreditas*. 'Tis certain the word *Conqueſtus* did not in that age imply any thing of that Power, which a Prince or State might acquire, by Force or Terror of Arms, over another Prince or State; and therefore I ſhall make no uſe of his Admiſſion, that *H.* 2. took *Conqueſtor Hiberniæ* into his ſtile, contrary to the Authority of (*c*) Mr. *Selden*, cited in his Margin, and to which I cannot but ſubſcribe. In truth, tho (*d*) *H.* 2. was ſtiled *Lord of Ireland*, I am very well aſſured none can be found where he is ſtiled

P. 12, & 13.

(*a*) Vid. *Mr.* Petyt's *Pref. to the Rights of the Kingdom.* Mic. 2. Jo. *The ſame tranſcribed more at large in* Hales's *Collect.* in Bib. Hoſpitii Lincoln.

(*b*) Glanvil. de legibus, lib. 7. c. 1. Vid. ib. aut habet hæreditatem tantum, aut queſtum tantum.

(*c*) *P.* 14.

(*d*) Vid. *Preſ. to* Davis's *Rep. The firſt after the Norman Conqueſt that was ſtiled* Lord of Ireland.

Girald. Camb. Hibern. expugnat.

ſtiled *Conqueſtor*. Yet *Girald*, an Author of that time, calls him, *Triumphator Hiberniæ*, which is tantamount to Conqueror. But ſince *Conqueſtor*, when firſt uſed, ſignified no more than one who came to a Right which he claimed not by *hereditary Deſcent* (according to which *W.* 1. acknowledged, that he was *made* or *created* King of the Engliſh by *hereditary Right*, that is, as has elſewhere been ſhewn, and may be more at large, was duly let in to the Inheritance of the Crown) however the word *Conqueſtor* has been in following ages applied both to *W.* 1. and to *H.* 2. Let's conſider a little,

Vid. *Reflections upon a treaſonable Opinion againſt ſigning the voluntary Aſſociation.*

1. Whether the Engliſh Nation ever ſubmitted to *W.* 1. as a Conqueror, in a ſenſe of larger ſignification than 'twas antiently uſed.

2. Whether the Iriſh Nation ſubmitted to *H.* 2. or to any other of our Kings, more abſolutely than the Engliſh did to *W.* 1.

1. Mr. *Molineux* agrees, that *E.* 3. was the firſt that us'd the *Æra* of *poſt Conqueſtum*; which indeed was no more than to diſtinguiſh the *Edwards*

P. 14.

wards after the time of *W.* 1. from the three *Edwards* which reign'd in *England* before that time: but no body that I know of, has yet pretended that *W.* 1. ever aſſumed the ſtile of *Conqueror*; and I dare ſay, no one Author of that time, printed or in Manuſcript, aſcribes it to him. I muſt own in ſome of his Charters, he ſays, he *gain'd the Kingdom by the Sword, having ſubdued* Harold *and his Accomplices:* but beſides that *Puffendorf*'s Aſſertion is undeniable; that *after a Prince is overcome in a juſt War, till the Subjects conſent, the State of War continues*; *and there is no Obligation nor Faith, and ſo no Dominion*; *W.* 1. did not come to civilize and ſubdue the People to Laws, but to turn out, 1*ſt.* An Uſurper upon the Right of the People, upon whom he had impoſed himſelf without any true Election, notwithſtanding what ſeveral antient Authors have affirmed. And, 2*dly.* An Uſurper upon the Right which *W.* 1. had, by a full and a formal Election, he having been elected Succeſſor in the life

Puff. de Jure Gentium. VII. 7. 3.

life time of the Confessor: which I may hereafter shew, with all the Circumstances, but shall at present refer only to three Authorities out of many.

Pictav. gesta W. Ducis Norm. & Regis Anglor. f. 181.

William of *Poictiers*, an Author who lived in the very time, informs us, that the Confessor sent an Embassy into *Normandy*, *suorum assensu*, by the *assent of his People*; to assure him of the Succession.

Ord. Vital. f. 492.

And *Ordericus Vitalis* has these words.

Edwardus nimirum propinquo suo W. D. N. primo per Rodbertum Cant. summum Pontificem, postea per eundem Heraldum, integram Anglici regni mandaverat concessionem: ipsumque, concedentibus Anglis, fecerat totius juris sui hæredem.

Edward *sent an Embassy to* William *Duke of* Normandy, *first by* Robert *Archbishop of* Canterbury, *afterwards by* Harold *himself*, *acquainting him with the entire Grant of the Kingdom of* England: *and had made him Heir of all his Right*, with the Consent of the English.

Which shews in what sense *Ingulph*, who was Secretary to *W.* 1. is to be understood, when he says, That

Eum ſibi ſuccedere in regnum voce ſtabili ſancivit.

That *the* Confeſſor, *with a ſtable Voice ordained, or appointed him to ſucceed him in his Kingdom.*

'Tis not to be queſtioned, but *Ingulph* who was an *Anglo-ſaxon*, and well knew that a King could not diſpoſe of the Engliſh Crown, without the conſent of the *States of the Realm*; would be underſtood by this, that the *Confeſſor's voice*, or *nomination*, had a *Parliamentary Sanction*; when one of the *Norman* writers looks upon *Harold* as a * *madman*, for not ſtaying to ſee what a *publick Election* ſhould determine.

That *W.* 1. came only to turn out an Uſurper, is not all: but having done this with a great force, the People of *England* would not receive him for King upon his Victory, till they had treated and agreed with him in a † *Convention* at *Berkhamſtead*; where, as Authors concur, *fœdus pepigit*, "he ſtruck a "League with them; and was not only obliged to maintain the *Engliſh*

* Non expectabat veſanus Anglus quid publica electio ſtatueret. Pictav. ut memini, vel Ordir. Vital.

† Flor. Wig. Fidelitat. juraverunt, quibus & ipſe fœdus pepigit. S. Dunelm. F. 195. Hoveden. F. 258. Rad. de Diceto Col. 480. Bromton Col. 958.

liſh Laws, in virtue of a *mutual Contract*: but part of the *Contract* with the || *Prelats*, and the *Nobility of the Kingdom*, was, That he ſhould be *crown'd as the manner of the Engliſh Government requires*. From thoſe Authors who give the heads of his Oath, adminiſtred by *Aldred* Archbiſhop of *York*, 'tis plain, that he was crown'd according to the *ſtanding Ritual* in uſe from the Coronation of King *Ethelred*, and continued to the Reign of *H.* 1. without any material alteration: And *Authors*, as well as the *Ritual*, ſhew, that the people were ſolemnly ask'd, *whether they would have him to reign over them?* to which they expreſt their *conſent*, in ſuch terms as implied a * *Grant*.

|| Ordir. Vital. F. 503.

Bib. Cotton. ſub Effigie Claudii, A. 3.

* Bib. Cot. ſup. Volumus & concedimus.

But the *Coronation Oath* being only in general terms; that King was obliged, once at leaſt, if not oftner, to ſwear expreſly, that they ſhould enjoy the Benefit of the *Confeſſor*'s Laws; that Digeſt of ſo much of the common Law of *England*, as was in his time thought neceſſary to be reduced to writing; to which

Vid. Selden. Diſſert. ad Fletam de confirmatione, 4° Regni ſui Ekal. vid. etiam Mat. Par. Addit. de Fretherico Ab. Sancti Albani, extorquente cautionem juratoriam.

ſome

ſome additions were made by that King *in Parliament, for the benefit of the Engliſh.*

That there was nothing like this, in the ſubmiſſion of the people of *Ireland* to *H.* 2. has appeard above; and that he acted according to the import of his ſtile, of *Lord* of *Ireland*, in impoſing Laws, and a King upon 'em.

And I would gladly know what *Iriſh Laws and Cuſtoms* he ſwore to maintain?

Tho, therefore, I am as avers to the common Notions of *Conqueſt* as this Gentleman, eſpecially to the ſuppoſition, that *God*, "in giving "one Prince a Conqueſt over ano- "ther, THEREBY puts one in poſ- "ſeſſion of the others Dominions, "and makes the other's Subjects "become his Subjects, or his *Slaves*, "as they come in, *upon conditions*, "or *at the will of the Conqueror*: Yet I muſt deſire Mr. *M.* to explain thoſe Acts of Parliament made in *Ireland*, which not only ſeem to import, that the *Crown* and *Kingdom* of *England*, had made an abſolute

vid. *God's ways of diſpoſing of Kingdoms.* P. 20.

The ſenſe of Parliaments in Ireland, *in relation to Conqueſt.*

ſolute acquiſition of the Land of *Ireland*, but uſe that ſcurvy word, *Conqueſt*.

Stat. Hib. 28 H. 8. c. 3. An Act, 28 *H.* 8. recites, That the King's Land of *Ireland*, heretofore being inhabited, and *in due obedience unto the King's moſt noble Progenitors, Kings of* England, *who, in the right of the Crown of* England, *had great Poſſeſſions, Rents, and Profits within the ſame Land*; had grown into great ruin and deſolation, for that *great Dominions, Lands, and Poſſeſſions, had by the King's Grants*, courſe of Deſcents, and otherwiſe, come to *Noblemen* of *England*, by whoſe negligence the *wild Iriſh* got into poſſeſſion; the *Conqueſt, and winning whereof*, in the beginning, not only coſt the *King's noble Progenitors*, but alſo thoſe to whom the Lands belong'd, *charges ineſtimable*: and tho the King's *Engliſh Subjects* had valiantly oppoſed the *Iriſh*, yet upon their abſenting themſelves again out of *Ireland, the Natives, from time to* F. 64. *time, uſurped and encroached upon the King's Dominions*; and particularly

ly that the Earl of *Kildare*, with his accomplices, endeavour'd *to take the Land of* Ireland *out of the King's poſſeſſion, and his Heirs thereof for ever to diſherit.*

For theſe, and divers other hurts and enormities, like to enſue to the Commonweal of the Iſland; in reſpect of the *ineſtimable Charges* which the King had ſuſtained, and apparently had occaſion to ſuſtain for, and about *the conqueſt*, and *recontinuance* of the ſame, out of his Enemies poſſeſſion; *tho the King had right to all the Lands and Poſſeſſions* there referr'd to, and tho he might juſtly inſiſt upon the Arrears of two parts of the Land of thoſe who had abſented themſelves, which might amount to more than the purchaſe of 'em; it veſts in the *King and his Heirs, as in the Right of the Crown of* England, only the Lands of ſome particular perſons. F. 65.

The Statute of the Queen attainting *Shane Oneile*, ſpeaks of *populous, rich, and well-govern'd Regions, wealthy Subjects, beautiful Cities, and Towns*, of which the *Im-* Stat. 11. Eliz. Seſ. 3. c. 1.

perial Crown of England had, before that time, been *conveniently furnished*, within the *Realm of* Ireland; which after being lost, had been *recontinued* to the Queen's *quiet possession*.

But the Rebel, *Shane Oneile*, refusing the name of *a Subject, and taking upon him*, as it were, the Office of a Prince, had enterprized great *Stirs*, *Insurrections*, and horrible *Treasons*, against her *Majesty*, her *Crown*, and *Dignity*; imagining to deprive her Highness, her *Heirs* and *Successors*, from the real and actual possession of her *Kingdom* of *Ireland*, her *true*, *just*, *and ancient Inheritance to her*, *by sundry Descents*, *and authentick strong Titles*, *rightfully and lawfully devolved*.

And having mention'd a Title from *Gurmond* the Son of *Belin*, King of *Great Britain*, says,

F. 37. "Another Title is, as the Clerk "*Giraldus Cambrensis* writeth at "large, of *the History of the Con-* "*quest of* Ireland, by King *H.* 2. "*your famous Progenitor*.

The Title to the *Land* then recognized,

nized, was abundantly ſtrengthned and confirmed by *Iriſh* Parliaments in the time of *J.* 1. and ſince. In the Act of *Recognition* to *J.* 1. they tell him, of his having quench'd the moſt dangerous and *univerſal Rebellion*, that ever was rais'd in that Kingdom; in the ſuppreſſing whereof, the *unreform'd parts of the Land*, which being rul'd by *Iriſh* Lords and Cuſtoms, had never before receiv'd the Laws and civil Government of *England*, were ſo broken and reduced to *Obedience*, that all the Inhabitants thereof did gladly ſubmit themſelves to his *Highneſs's ordinary Laws and Magiſtrates*: which gave unto his *Majeſty a more entire, abſolute, and actual poſſeſſion*, than ever any of his Progenitors had. 11 J. c. 1.

All *Ireland* being thus brought into ſubjection to the Crown and Laws of *England*; K. *James* taking notice of Laws which had been made * *after the Conqueſt* of that Realm by his *Progenitors Kings of* England, to keep up the diſtinction between the *Engliſh* and the Natives of the *Iriſh* Blood; that he had then taken 'em * 12, 13, 14, J. 1. c. 5.

all into his protection, and that they lived *under one Law, as dutiful Subjects* of their *Sovereign Lord and Monarch*, repeals those dividing Laws.

After this the *Irish* Parliament * granted *C.* 1. four Subsidies, *rightly considering the vast, and almost infinite expence of Men, Mony, Victuals, and Arms, sent out of* England *thither, by the King and his Royal Progenitors, for reducing that Kingdom into the happy condition wherein it then stood.*

* *Act for Subsidies*, 11 C. 1.

And suitably to the import of the word *Conquest*, Acts of Parliament of that Kingdom, in the Reign of that King, shew that the Titles to Lands of the *English Plantation*, or which they from time to time gain'd from the *Irish*, were enjoy'd by Grants from the Crown: and for securing the Estates to *Undertakers*, *Servitors*, *Natives*, and *others*, all the Lands in several Counties, commonly call'd *Plantation Lands*, were vested in the King, his *Heirs* and *Successors*, in right of *the Imperial* Crown of *England* and *Ireland*.

10 C. 1. Sef. 1. c. 3. *and* Sef. 3. c. 3.

Nota, *But one Imperial Crown.*

The

The Stat. 14 & 15 *C.* 2. holds the *Iriſh* Rebels to be ſubdued and conquer'd Enemies, and therefore veſts all their Lands in the *Crown* of *England*, in order to make ſatisfaction to the *Proteſtant Adventurers*, for the reducing that Kingdom to its due obedience, and to enable the Crown to extend Grace to ſuch as ſhould be held deſerving of it; Repriſals being firſt made to the Proteſtant Proprietors. 14 & 15 C. 2.

Tho, therefore, I am far from admiring the Lord *Coke*'s reaſoning in *Calvin*'s Caſe; I may here ſubjoin part of Mr. *M*'s reflection upon him, and refer him to the *Iriſh* Acts of *Parliament* to qualify his Cenſure of the Ld *Coke*'s reſtriction of the Opinion in the *Year-book*, 2 *R.* 2. that the *Iriſh* are not bound by Statutes made in *England*, becauſe they have no *Knights of Parliament* here; which, ſays the Lord *Coke*, *is to be underſtood, unleſs they be ſpecially named.* To this aſſertion Mr. *Molineux* admits he gives *colour of reaſon*, by ſaying, " That tho *Ireland* be a diſtinct Do- " minion from *England*, yet the Ti- " tle Non hic habent Milites Parliamenti. P. 117.

" tle thereof being by *Conqueſt*,
" the ſame by *Judgment of Law*,
" might by expreſs words be bound
" by the Parliaments of *England*.

P. 117. To confound the Lord *Coke*, I " would fain know, ſays this Gen-
" tleman, what the Lord *Coke* means
" by *Judgment of Law*: Whether
" he means the Law of Nature and
" Reaſon, or of Nations, or the
" Civil Laws of our Common-
" wealths? For anſwer to which I need at preſent only ask him, what ſort of Law he takes the above-cited Statutes of *Ireland* to be? and ſhall afterwards ſhew that they have all along ſubmitted to ſuch a Conqueſt, or Acquiſition, as gives a Right to the impoſing of Laws.

P. 118. *Of Mr.* M's *compariſon between* Scotland *and* Ireland, *and of the Annexation of* Ireland *to the Crown of* England.

3. But ſince he is pleas'd to ſay, As *Scotland*, tho the King's Subjects, *claims an exemption from all Laws but what they aſſent to in Parliament*; *ſo we think this our Right alſo*: and going upon the ſuppoſition of *Ireland*, being a Kingdom as diſtinct from *England* as *Scotland*, he frames an Objection, that however they may be reſtrain'd by War from doing

ing what may be to the prejudice of *England*, the ſtronger Nation: If this may be, he asks, why does it not operate in the ſame manner between *England* and *Scotland*, and conſequently in like manner draw after it *England*'s binding *Scotland* by their Laws at *Weſtminſter*? P. 147.

As to *Scotland*, not here to enter into the Diſpute between the Lord *Coke* and the reſt of the Judges, who reſolv'd *Calvin*'s Caſe, and the Houſe of Commons of that time; nor yet, into the Queſtion concerning the *Scotch Homage*, whether 'twas for the Kingdom of *Scotland*, or only for ſome Lands which their Kings held of the Crown of *England*: 'Tis enough to obſerve, that during the *Heptarchy* here we often had one King, who was *Rex primus*, to whom the others were *Homagers*, and obedient in the Wars for *common Defence* of the Iſland; yet each King had his diſtinct Regalities, and the Countrys their ſeveral Laws and Cuſtoms, and *diſtinct Legiſlatures* for Lands, and other Rights and Things within themſelves. Vid. Moor's Rep.

This 'twas easy to conceive that *Scotland* had; and thus, both there and here, under the *Heptarchy*, the several Kingdoms, notwithstanding Homage to one King who had the *Primacy*, were under separate Allegiances, as the respective Subjects were not bound to the same Laws; tho the States of the Kingdom did Homage as well as the King. When the Right to the Crown of *Scotland* came afterwards in *J.* 1. to be in the same Person who had the Crown of *England*, and that without any new Acquisition by the Crown or Kingdom of *England*, there was (*a*) no *merger* of the less Crown: and 'tis certain that in the Judgment of Law, *Palatinates* fallen to the Crown continue distinct Royalties.

Vid. Ben. Ab. in Bib. Cot. de Homagio Regis Scot. H. 2.

(*a*) Vid. *Answ. to* C. J. Herbert *on the dispensing Power; and particularly the Sheriwalty of the County of* N. *for which some have supposed that the Statute in that case was dispensed with. A Comparison between* Ireland *and* Wales.

But if, for the keeping a Kingdom distinct, whether in the Person of the same King, or as an Appendant to his Imperial Crown (*b*), a distinct Legislature is necessary as well as a distinct Jurisdiction; then *Wales*, which in many of our Statutes is call'd a Dominion, was no di-

(*b*) *Mr.* M. p. 165.

diſtinct Dominion, or Principality; if it at any time continued in the Crown, without having Parliaments of their own, or being repreſented here, by Members of their own chuſing: but thus it was with *Wales* from the 12*th* (*c*) of *E.* 1. to the 34*th* of *H.* 8. in right of *E.* 1*ſt's* Conqueſt, as Sir *John Davis*, or the Judges in his time call the Acquiſition of that Dominion; and as 'tis there; "*E.* 1. changed "their Laws and Cuſtoms as he "had expreſs'd in his Charter, or "the Statute of *Rutland* which fol-"lows:

(*c*) 34 H. 8. c. 13.

Divinâ providentiâ terram Walliæ cum incolis ſuis prius nobis jure feodali ſubjectam, in proprietatis noſtræ dominium totaliter & cum integritate convertit, & coronæ regni noſtræ annexit.

By the Divine Providence the Land of Wales, *with its Inhabitants, before ſubject to us by feudal Right, we have turn'd wholly and entirely into the Dominion of our Propriety, and annexed it to the Crown of our Kingdom.*

Davis's Rep. f. 41. *b.*

Should be in the plural number.

And as to their Laws and Cuſtoms;

Quaſ-

Quaſdam de conſilio procerum regni noſtri delevimus, quaſdam permiſimus, quaſdam correximus, ac etiam quaſdam alias adjiciendas & faciendas decrevimus.

Some, by the Counſel of the Peers of our Kingdom, we have abrogated, ſome we have permitted, ſome we have corrected, and beſides ſome others we have added and decreed to be put in execution.

Here is a Title, underſtood at that time, of taking a Forfeiture for Rebellion againſt the Lord of the Fee; and in conſequence of this the King and his Peers, in Parliaments, took upon them to exerciſe a Legiſlative Power over *Wales*.

But notwithſtanding that *Wales* was thus united and annexed to the Imperial Crown of *England*, and abſolutely ſubjected to its Legiſlature, yet, as is held in *Davis*'s Reports, this Principality of *Wales*, not being govern'd by the common Law, was a Dominion by it ſelf, and had its proper Laws and Cuſtoms.

Davis f. 67. le Caſe del County Palatine.

That Report ſhews *Wales*, by reaſon of theſe different Laws and Cuſtoms,

Cuſtoms, to be more diſtinct and ſeparate from the Kingdom of *England*, than *Ireland* is; and that a Tenure of the Prince of *Wales* ſhould not after its reduction under the Subjection of *England*, become a Tenure of the Crown in chief, but that it ſhould be ſo in relation to Tenures of a County *Palatine* in *Ireland*, as well as *England*, becauſe ſuch a County in either Land was originally a parcel of the Realm, F. 67.
" and derived from the Crown, and
" was always govern'd by the Law
" of *England*; and the Lands there
" were held by Services and Te-
" nures, of which the common
" Law takes notice, altho the Lords
" have a ſeparate Juriſdiction, and
" Seigniory ſeparate from the
" Crown. But that Tenure in Chief in *Ireland*, as well as *England*, could be no other than of the Crown of *England*, appears not only by the Grants to the *Electors Palatine*, or *Lords Marchers* of *Ireland*, but in that *Ireland* was not raiſed into a Kingdom till *H.* 8's time.

The mention of *Palatinates* may well

Comparison between Ireland *and the County* Palatine *of* Chester.

well occasion a Comparison between the Land of *Ireland*, and the *County Palatine* of *Chester*, a distinct Royalty in the Principality of *Wales*: that had its Parliaments within it self, as 'tis very probable, from before the time of *W.* 1. it being certain, that *Hugh Lupus* enjoyed that Earldom by Judgment of the Lords, if not the Great Council in the time of *W.* 1. and their Parliaments may be traced from within the time of *H.* 3. downwards to their first having Representatives in Parliaments of the Kingdom, 34 *H.* 8.

Rot. Pat. 9. H. 3. m. 9. d. Rot. Pat. 44. H. 3. m. 1. d. Pat. 6. E. 1. m. 6. de 15ma in Com. Cestr. Pat. 20. E. 1. m. 6. de 15ma Regi, &c.

Their *provincial Parliaments* were chiefly, if not only, for the granting Aids to the Crown: but notwithstanding their being represented in Parliaments at home, yet Laws were made here in the superior Parliament, for the governing the Inhabitants of the County of *Chester*.

P. 148. *Some object, that* Ireland *is to be look'd upon only as a Colony from* England.

Now, without considering whether *Cheshire* was a Colony from *England*, or from *Wales*, or mix'd, or else a place exempt without regard to the being any Colony; I may well hold, that tho from before the time

time of *W.* 1. they had the privilege of being tax'd only by themſelves, or with their own Conſent: yet their Parliament was ſubordinate to the Great Council of the Kingdom of *England*; and 'twas no violation of the Right of their Parliament, for the National Council to give them Laws for their better Government, and to reſtrain 'em from acting to the prejudice of the Crown and Kingdom of *England:* neither was this any diminution to the Prerogative of the Crown. The inſtance of *Cheſter* I may well bring to this point, being authorized by the Learned Judg *Shardlow* in the time of *E.* 2.

In an Action of Debt in the *King's-Bench* here, upon a Bond ſeal'd at *Cheſter*, that learned Judg ſays; "*Cheſter* is out of our Juriſ- "diction here, inſomuch that there "is not any Miniſter in that Coun- "ty anſwerable here for what he "has done. Of a Deed done out "of the Juriſdiction here, or out "of the Realm, as at *Paris*, or elſe- "where beyond Sea, I ought not "to

Year-book of E. 2. f. 613.

" to answer. The Counsel urges, that " *the Power here extends through-* " *out the Realm of* England, and to " a Deed done within the Realm " of *England* you ought to answer; " and *Chester* is within *England*.

But *Shardlow* insists upon his former Judgment, and adds, " IRELAND IS WITHIN THE REALM; " and to a Deed committed there, " *I shall not answer here.* Also *Duresm* " is within *England*, yet I shall not " answer at all here; *because the* " *Court cannot try the Fact if de-* " *nied.*

This shews plainly, that at that time *Ireland* was as much part of this Realm as *Chester*; that the distinction of Jurisdictions was not for want of Superiority. This has been maintain'd over * *Chester* and *Ireland*, by Writs of Error upon Judgments in Law. The reason of which is given by Chief † Justice *Vaughan*, that *otherwise they may insensibly alter the Law appointed, or permitted, or give judgment to the lessening the Superiority.*

* 19 H. 6. F. 12. b. 4. Inst. F. 212.

† Vaughan's Rep.

Mr.

Mr. *Molineux* will have it, th: * this removal of a Judgment from the *King's Bench* of *Ireland*, by Writ of Error, into the *King's Bench* of *England*, dos not infer the ſubordination of *Ireland* to the Kingdom of *England*; but that this was a method appointed by an Act of Parliament of *Ireland*, which is loſt among a great number of other Acts which they want for the ſpace of 130 years at one time, and 120 at another. 'Tis eaſily ſuppoſed by him, that they had Parliaments of their own for the moſt of thoſe times; but others will believe that they were generally governed by the Laws of *England*, according to the Tenour of their ſubmiſſion to *H.* 2. and the interpretation then put upon that ſubmiſſion. But methinks the force of his Argument, in relation to the ordinary *Juriſdictions* the *King's Bench* of *England* exerciſes over that of *Ireland*, is not to be fear'd.

* *Of the Juriſdiction of the* King's Bench *of* England *over that of* Ireland. P. 13. Vid. ib. *the Lord* Coke, *ſeems to infer from the ſubordination*, &c.

He is pleaſed to ſay, *erroneous Judgments might have been removed from* England *into the King's Court in* Ireland, *for ſo certainly it muſt be*

P. 13. *Of the ordinary Juriſdiction of the* K's Bench *of* England *over that of* Ireland.

be since the Court travelled with the King. For which I need only mind him of his own quotation of * Sir *Richard Pembrough*'s Case: according to which, for the King to have required the attendance there of the *Tenants in chief*, who were the Judges in his Court here, would have bin a banishment: But 'tis certain this could be no part of their Duty declared by the constitutions of *Clarendon*, 10 *H.* 2. in affirmance of the antient customs of the *Realm* of *England*, under that clause which requires 'em to be at the *Trials and Judgments of the King's Courts.*

* P. 164, 165.

Interesse judiciis Curiæ Regis.

Besides, I shall shew, that the *King's Court* in *England* (which when not meant of the Parliament, did manifestly in those antient times relate either to a *Counsel chosen in Parliament*, and acting out of it by Authority from thence, or to the Body of the Tenants in chief, the *Great Lords*, for whose easing themselves of such troublesome attendances, the later Jurisdiction of the present *King's Bench* has sprung up) was possess'd of the Superiority of ordinary

ordinary Juriſdiction over *Ireland*, before Mr. *M.* can ſhew that they had any Acts made in *Ireland* of any kind, except that wherein they firſt gave themſelves up to obey and depend on the *Engliſh Legiſlature*; and unleſs they can produce Acts of their Parliaments for raiſing Aids to the *Crown* of *England*.

In * the 37*th* of *H.* 3. one *Baret* complain'd to the King of injuſtice done him by Juſtices itinerant at *Limbrick*.

* Rot. Clauſ. 37 H. 3. m. 4. d. Hibn.

Upon which the Juſtices of *Ireland* were commanded to ſend the Record before the King.

Et mandatum eſt Juſticiariis Hiberniæ quod recorda cum omnibus adminiculis coram eo venire faciant.

Where the Record was commanded hither, *per ſaltum*, without any regard to the *King's Bench* of *Ireland*.

And another Record in the ſame Year before *Shardlow*, and other Juſtices at *Dublin*, as I take it, of the *Common Pleas* there, was, by Writ of Error from hence, tranſmitted to the *Juſtice* of *Ireland:* Without which it ſeems he was then held to have no Authority to proceed in *Ireland*.

Rot. Clauſ. 37 H. 3. m. 15.

Recorda penes Remem. in ſcaccar. Placita coram Rege 20 E. 1. Vid. inf. *of Petitions in Parl.* Temp. E. 1.

In the 20*th* of E. 1. a Writ of Error had removed out of *Ireland* a Record of a Judgment of Felony: Which, indeed, was remanded; not for want of Juriſdiction to correct the Error of the Judges in *Ireland:* But,

1. Becauſe there was no notice to the King's Attorney General for *Ireland:* or at leaſt, he did not attend.

2. Becauſe 'twas a queſtion of Fact.

Quia nullus venit ex parte Regis ad ſequendum pro ipſo, qui veritatem ſciverit, ideo hæc non poteſt ad examinationem; ſet magis expedit domino Regi, quòd in partibus Hiberniæ, ubi feloniæ præd. perpetrari debent, examinentur, & modo debito terminentur.

Becauſe no body who may know the truth, comes of the part of the King to proſecute for him: Therefore this cannot proceed to examination: but 'tis expedient *for the King, that the ſaid Felonies ſhould be examined, and duly determined in* Ireland, *where the ſaid Felonies are ſuppos'd to have been committed.*

How-

However Mr. *M.* conceives it P. 133.
" *manifeſt*, that the *Juriſdiction* of
" the *King's Bench* in *England* over
" a Judgment in the *King's Bench*
" of *Ireland*, dos not proceed from
" any *ſubordination* of one King-
" dom to the other; becauſe the
" Judges in *England* ought, and P. 132.
" always do judg according to the
" Laws and Cuſtoms of *Ireland*,
" and not according to the Laws
" and Cuſtoms of *England*, any o-
" therwiſe than as theſe may be of
" force in *Ireland*. But,

1. 'Tis evident that the Judges neither will, nor can judg according to any Law or Cuſtom of *Ireland*, which is contrary to the Rules of our Law, or which has not been allowed there as no way prejudicial to the Law here: According to his inſtance of a *Declaration for an Acre of Bog, a word not known in* England; but well enough underſtood in *Ireland*. Which I may anſwer with a parallel caſe lately adjudged in the *Exchequer* of *England*. P. 133.

One having ſpoken ſcandalous *welſh words* in *Wales*, or in a part of *England* where the *Welſh* Tongue is uſed, was libel'd againſt in the Eccleſiaſtical Court there: Upon which the Court of *Exchequer* was moved for a Prohibition, becauſe the Words were *inſenſible*, and of no ſignification: But no Prohibition was granted, becauſe they were underſtood where they were ſpoken. And thus 'tis in relation to the particular Inſtances of Mannors, or inferiour Courts. Therefore,

2. By the ſame reaſon, that the judging according to the Law uſed in *Ireland* would imply, that there is no Subordination, 'twill follow that the Inferior Courts in *England* are not *ſubordinate* to the Courts of *Weſtminſter-Hall:* and I may add, neither is the *King's Bench* of *England ſubordinate* to the Houſe of Lords.

The ordinary Juriſdiction of the Lords, and the King's Bench, *an incident to the Superiority of the Crown of* England.

As to the queſtion of their Juriſdiction, occaſioned, as Mr. *M*'s * Margin has it, by the Caſe of the Biſhop of *Derry*, I need ſay little here, referring him to the Judg-

* P. 3.

ment

ment of the *Lords*, and to that exercice of the Judicial Power, which I ſhall have an opportunity of ſhewing in the Reign of *E.* 1.

But as to his ſuppoſed *clear* Argument againſt the *ſubordination*, from the Lords doing nothing upon the Petition of the Prior of *Lanthony*, who appeal'd to the Parliament of *England*, from a refuſal of the *King's Bench* here to meddle with a Judgment which had paſs'd in the Parliament of *Ireland:* P. 125, 126. Rot. Parl. 8 H. 6.

'Twill admit of ſeveral Anſwers;

1. This came not before the Lords by Writ of Error, or by Appeal from the Lords of *Ireland*; but was a complaint of the *King's Bench* here.

2. This was after the Charter which I ſhall afterwards ſhew, placing a judicial Power to ſome Purpoſes in their *Parliaments:* But whether they exceeded that Authority, 'twas not for the *King's Bench* to judg, but for that Power from whence their Charter was derived.

3. This Petition seems either to have come too late, or to have been waved: for if it had fallen under consideration, 'tis probable that some Answer to it could have been endors'd, as was usual in former times.

But that the *ordinary Jurisdiction* both of the Lords in Parliament, and of the *King's-Bench* here, is but an incident to the Superiority of the Crown of *England*, will be much clearer than any thing Mr. *M.* has urged. And whatever Mr. *M.* conceives, the Annexation of *Ireland* to the Crown of *England*, will sufficiently manifest the *Subordination*; tho he, supposing that this was done by the Irish Statute, which annexes it as a Kingdom, with others which declare it annex'd as a *Land* or *Dominion* of a lower Character, conceives "little more is effected by "these Statutes, than that *Ireland* "shall not be aliened or separated "from the King of *England*, who "cannot hereby dispose of it, other-"wise than in legal Succession a-"long with *England*; and that "who-

Of the Annexation of Ireland *to the Crown of* England.

P. 41, 42.

P. 44.

" whoever is King of *England*, is " *ipso facto* King of *Ireland*.

But if these Statutes, bating the name of Kingdom (which the Parliament of *England* afterwards gave them) are only declaratory of the antient Right of the Crown of *England*; then I may well hold, that there is not so much effected by these Statutes, as he yields, it being only the operation of Law. And if by operation of Law a King of *England*, tho not succeeding by a strict Right of Descent, but by the Choice or Declaration of the States of this Realm is *ipso facto* King or Lord of *Ireland*, I would gladly know how that Kingdom or Land, which he owns to be thus inseparably annex'd to the Imperial Crown of *England*, can be a compleat Kingdom? And since he is appleas'd to ask, whether *multitudes of Acts of Parliament, both of* England *and* Ireland, *have not declared* Ireland *a compleat Kingdom?* and whether 'tis not stiled in them all, *the Kingdom or Realm of* Ireland?

P. 127. *P.* 149. Vid. Davis Rep. f. 61. *citing* 28 H. 8. c. 2. La corone d' engleterre en pluſors auters Acts de Parl. eſt appel. Imperial Crown, & la corone de Ireland eſt appendant, a ceo 28 H. 8. c. 20. & unite & knit al. Imperial corone D' engleterre, 33 H. 1. c. 1.

I would entreat the favour of him, to shew me one Act of Parliament of either Kingdom, which says, or all Circumstances consider'd implies, that *Ireland* is a *compleat Kingdom:* or that ever any Parliament of their own held it to be advanced to the Dignity of a Kingdom, before 33 H. 8. c. 1. 33 *H.* 8. tho, as they acknowledg, the Kings of *England* had Kingly Power there long before.

I must own, that as the name of *King* was in *H.* 8's time thought requisite to charm the *wild Irish* into Obedience; so in Queen (*a*) *Elizabeth*'s time, *Imperial Crown* was thought to make a conquering Sound: but this was never ascribed to it by any Parliament of *England*; nor, that I can find, even of *Ireland*, before her Reign or since. (*a*) 2 Eliz. c. 1, & c. 2.

But the *one Imperial Crown*, upon which *Ireland* has been, and still is, dependent, is the Crown of *England:* for this the Statute of *Ireland*, before that was made a Kingdom, is expres, having these words;

" Call-

" Calling to our remembrance the 28 H. 8. c. 2.
" great Diviſions which in time
" paſt have been, by reaſon of ſeve-
" ral Titles pretended to the Impe-
" rial Crown of the Realm of *Eng-*
" *land*, whereunto this your Land
" of *Ireland* is appending, and be-
" longing.

So another in the ſame Year.
" Foraſmuch as this Land of *Ire-* 28 H. 8. c. 5.
" *land* is depending, and belonging,
" juſtly and rightfully to the Impe-
" rial Crown of *England*; it en-
acts, that the King, his Heirs and Succeſſors, Kings of the Realm of *England*, and Lords of this ſaid Land of *Ireland*, ſhall have and enjoy, *annexed and united to the Imperial Crown of* England, all Honours, Dignities, Pre-eminencies and Authorities, *&c.* belonging to the Church of *Ireland*.

If Mr. *Molineux* obſerves duly, P. 166.
Ireland has all theſe Imperial Rights declared in the Iriſh Statute, 33 *H.* 8. *c.* 1. but I cannot find by what Rule he infers this from an Act of Parliament, which is expreſs, that the King of *England* ſhall have the Name,

Name, Stile, Title and Honour of King of *Ireland*, with all manner of Prebeminencies, *&c.* as united and knit to the Imperial Crown of the Realm of *England*.

Indeed it shews, that under the name of *Lord*, the King had the same Authority; but the name of *King* was thought likely to be more prevalent with the Irish Men, and Inhabitants within that Realm.

11 Jac. 1. c. 1. The Statute, 11 *Jac.* 1. declares him King of *England*, *Scotland*, *France*, and *Ireland*, by God's Goodness, and Right of Descent under one Imperial Crown.

10 C. 1. Sess. 3. c. 3. And the Statute, 10 *C.* 1. calls this the Imperial Crown of *England* and *Ireland*: And indeed Mr. *Molineux* would do well to shew that ever any of our Kings took any Coronation Oath for *Ireland*, otherwise than as Kings of *England*.

And yet I know not what he may do when his hand's in; since he has the Art to transubstantiate their Recital of an Act of Parliament in *England*, which declares that Popes

Popes had uſurped an Authority in derogation of the Right of the Imperial Crown of the Realm of *England*; recognizing no Superiour under God but only the King, and being free from Subjection to any Man's Laws, but only ſuch as have been deviſed, made and ordain'd within the Realm of *England*; or to ſuch other as, by ſufferance of the King and his Progenitors, the People of the Realm of *England* had taken at their *free Liberty, by their own Conſent, to be uſed among them, and have bound themſelves by long Cuſtom to the obſervance of the ſame*; To infer that 'tis thus with *Ireland*, becauſe the enacting part of that Statute which has this Recital is promulged for a Law in *Ireland*, is to ſuppoſe *Ireland* to be turned into *England*; and that the Commiſſioners, who are by virtue of that Act and the Great Seal, to exerciſe that Eccleſiaſtical Juriſdiction which the Statute in *England* placed in the See of *Canterbury*, are become Engliſh Archbiſhops.

Q. *Whether of* England *or* Ireland, *neither being named.*

And

And with the like way of reaſoning he would infer, that Acts of *Recognition* in *England* are of no Force in *Ireland*, till the Iriſh have recognized the ſame King; and yet confeſſes, "That whoever is King
P. 55. "of *England* is *ipſo facto* King of
"*Ireland*, and the Subjects are ob-
"liged to obey him as their Leige
P. 127. "Lord: That they in *Ireland* are
"ſo annexed to *England*, that the
"Kings and Queens of *England* are
"by undoubted Right *ipſo facto*
"Kings and Queens of *Ireland*. To
P. 157. uſe Mr. *M*'s own Expreſſion, *I am ſure there's an end of all Speech*, if he does not confeſs, that a Prince rightfully poſſeſt of the Engliſh Throne, is thereby King of *Ireland*, before any Recognition made by a Parliament there: and yet notwithſtanding this generous Conceſſion, he immediately ſubjoins;

"And from hence we may rea-
"ſonably conclude, that if any
"Acts of Parliament made in *Eng-*
"*land* ſhould be of force in *Ireland*,
"before they are receiv'd there in
"Parliament, they ſhould be more

"eſpe-

" eſpecially ſuch Acts as relate to
" the Succeſſion and Settlement of
" the Crown, and Recognition of
" the King's Title thereto, and the
" Power and Juriſdiction of the
" King. And yet we find in the
" Iriſh Statutes, 28 *H.* 8. *c.* 2. *An*
" *Act for the Succeſſion of the King,*
" *and Queen* Ann. And another,
" *c.* 5. declaring the *King to be ſu-*
" *preme Head of the Church of* Ire-
" land. Both which Acts had for-
" merly paſs'd in the Parliament of *P.* 128.
" *England.* So likewiſe we find
" amongſt the Iriſh Statutes, Acts
" of Recognition of the King's Ti-
" tle to *Ireland* in the Reigns of
" *H.* 8. Queen *Elizabeth,* King
" *Charles* 2. K. *William* and Q. *Ma-*
" *ry:* by which it appears, *that* Ire-
" land, *tho annexed to the Crown of*
" England, *has always been look'd*
" *upon to be a Kingdom compleat*
" *within it ſelf, and to have all Ju-*
" *riſdiction to an abſolute Kingdom,*
" *belonging, and ſubordinate to no*
" *Legiſlative Authority on Earth.*
" Tho 'tis to be noted, thoſe Eng-
" liſh Acts relating to the Suc-
" ceſſion

" ceſſion and Recognition of the " King's Title, do particularly " name *Ireland*.

Before I enter into the enquiry how this can be made conſiſtent with a Kingſhip *ipſo facto* before the Recognition in *Ireland*; 'twill be requiſite to inform him, that we have had Settlements of the Crown by Acts of Parliament here, which never were formally received by any Parliament in *Ireland*; and yet ſuch Act of Parliament here has ever been held to bind *Ireland*, tho 'twas not expreſly named; and that tho the Settlement has carried the Crown from the elder Branch of the Royal Family: for inſtance, 7 *H.* 4. at the requeſt of the Lords and Commons in Parliament, 'twas enacted, " That the Inheritance " of the Crown and of the Realms " of *England* and *France*, and of " all other the King's *Seigniories* " or Lordſhips beyond Sea, with " the appurtenances, be put and " remain in the Perſon of the ſaid " King, and the Heirs of his Body " iſſuing; and 'twas ordain'd, eſta-" bliſhed,

Vid. *the printed Statute-Book ending with* R. 3. *and Reflections upon a treaſonable Opinion againſt ſigning the Aſſociation.*

" bliſhed, pronounced, expreſſed,
" and declared, that Prince *Henry*,
" the King's eldeſt Son, *be Heir ap-*
" *parent*, to ſucceed him in the
" ſaid *Crown*, Realms, and Seignio-
" ries; to have them with all their
" Appurtenances, after the King's
" deceaſe to the Prince and the
" Heirs of his Body; with Re-
" mainders over, to the King's 2*d*
" and 3*d* Sons, and the Heirs of
" their reſpective Bodies ſucceſ-
" ſively.

And according to this Form 1 *H.* 7. " 'twas ordain'd, eſtabliſhed, and " enacted, by Authority of Parlia- " ment, that the Inheritances of " the Crowns of the Realms of " *England* and *France*, with all the " preheminence and dignity Royal " to the ſame appertaining, and " all other *Seigniories* belonging to " the King beyond Sea, with the " Appurtenances in any manner " due to them, or appertaining, do " ſtand and remain in the moſt no- " ble Perſon of their ſaid Sovereign " Lord *H.* 7. and the Heirs of his " Body lawfully iſſuing for ever,

In the beginning of the Statutes of H. 7. *in French.*

" with

" with the Grace of God to endure,
" and in no other Perſons.

Not to trouble Mr. *M.* with an enquiry, whether theſe, or any other Acts of Parliament in *England* of former Reigns, united *Ireland* to *England*, otherwiſe than as they declared their intention for that Seigniory, or Dominion, to go along with the Government of *England*; or what Act of Parliament in *Ireland*, ſince the firſt ſubmiſſion to *H.* 2. created an Annexation of the Land of *Ireland* to the Crown of *England*; I muſt entreat him to explain,

How it ſhould come to paſs, that the King of *England*, *ipſo facto*, by his being made King here, is King of *Ireland*; and yet that thoſe Acts of Parliament here, by which the King is declared King, without and againſt a ſtrict courſe of deſcent, are
P. 127. of no *force* till the King is recognized by Act of Parliament in *Ireland*?

If a *King* of *England*, *as ſuch*, is *ipſo facto* King of *Ireland*, is he not ſo before any Act of Recognition there? And if ſo, what can that,

that, or other Acts repeating the Laws made in *England*, ſignify more, than a full publication of what was the Law before?

If the *Election*, or Declaration of a King, by a Parliament in *England*, gives a Law in this matter to *Ireland*; and ſuch a King is to be obey'd by virtue of that Law, *ipſo facto*, before he is received and acknowledged by a Parliament in *Ireland*; do their ſubſequent Recognitions in the leaſt infer that *Ireland* is a *compleat Kingdom?*

Is it any better than a Contradiction to hold, that a King of *England*, as created or declared in a Parliament of *England*, is thereby, or at the ſame inſtant, King of *Ireland*; and yet that *Ireland* is a Kingdom ſo compleat in it ſelf, that he is no King till the Act of Parliament creating or declaring him King, is confirm'd by a Parliament in *Ireland?* Or take it the other way; P. 128.

No Act of Parliament in *England* is of any force till confirmed in *Ireland*; and yet a King declared by a Parliament of *England*, tho he was not

King before such declaration, is thereby, or *ipso facto*, King of *Ireland*: that is, an Act of Parliament of *England* is not of force in *Ireland* till confirm'd there; and yet 'tis of force *ipso facto* by the being enacted here.

Does it not therefore follow, that such an annexation of *Ireland* to the Crown of *England*, as makes the King of *England*, *ipso facto* King of *Ireland*, destroys the supposition that their Parliaments have Authority to confirm or reject Laws made by the *Legislature* in *England*? Or otherwise, that the supposition of such an Authority in the Parliament of *Ireland*, destroys that annexation which Mr. *M.* himself yields?

Further yet 'twill appear, that, even after a Parliament of *Ireland* had, as far as it could, annex'd that *Land*, as a *Kingdom*, to the *Imperial Crown* of *England*; an Annexation here was requisite, for the ratifying what had been done in *Ireland*.

Stat. 34 & 35 H. 8. c. 3. Therefore, 34 and 35 *H.* 8. an Act was made by the Parliament of *England*, for *ratification of the King's Majesty's Stile*; by the King, with

with the *aſſent of the Lords Spiritual, and Temporal, and the Commons in that Parliament aſſembled*, and by the Authority of the ſame, enacting that *all and ſingular his Grace's Subjects*, and *Reſiants*, of or within *this his Realm* of *England*, *Ireland*, and *elſewhere*, with other his *Majeſty's Dominions*, from *thenceforth* accept and take the King's Stile, in manner and form following.

" *H.* 8. by the Grace of God, King " of *England*, *France*, and *Ireland*, " Defender of the Faith, and of the " *Church* of *England*, and alſo of *Ire-* " *land*, in Earth the *ſupream Head*.

And 'tis enacted, that the ſaid ſtile *ſhall be* from thenceforth, by *the Authority aforeſaid, united, and annexed, to the Imperial Crown of his Highneſs's Realm of* England.

This related to all Eccleſiaſtical Power, as well as Civil, in *Ireland*, as well as *England*: In purſuance of this the Statute 1 *Eliz.* for the extinguiſhing all *uſurped*, and *Foreign Power*, and *Authority*, *Spiritual* and *Temporal*, which had been uſed *within this Realm*, or *any other her Maje-* 1 Eliz. c. 1.

ſty's Dominions, or *Countries*, enacts, That no Foreign *Prince*, or *Prelat*, ſhall enjoy any *Power*, *Juriſdiction*, *Superiority*, *Authority*, or Privilege, *Spiritual*, or *Eccleſiaſtical*, within *this Realm*, or within *any other her Majeſty's Dominions*, or *Countries*; but that ſuch Power, *&c.* ſhall be aboliſhed out of *this Realm, and all other her Highneſs's Dominions:* And that all Power of viſiting and correcting for *Hereſies* & *Schiſm*, *&c.* ſhall *for ever, by Authority of that Parliament, be united and annexed to the Imperial Crown of this Realm:* Eccleſiaſtics were to ſwear that they would maintain all ſuch *Juriſdiction*, *Privileges*, *Preeminence* and *Authority*, as *granted* or *belonging* to the *Queen's Highneſs*, *her Heirs and Succeſſors*, or *united to the Imperial Crown of the Realm.* And the Queen is impowred to iſſue out *Commiſſions* for *the executing that Act.*

This Statute bound *Ireland*, by plain intention, as that 34 and 35 *H.* 8. did in expreſs words. But Mr. *M.* will have it a mighty Argument, that this was of no force

P. 83.

in

in *Ireland*, till received by a Parliament there: becauſe after it had bin repealed in *England* by one Act, and another ſince the *Revolution* has declared ſuch Commiſſions to be illegal; yet the *Chancellor*, and others in *Ireland*, have held it to be ſtill in force there. But,

1. He ought to have ſhewn that the Statute here, repealing ſo much of the Statute of the *Queen*, as plainly expreſt an intention, that no ſuch Commiſſion ſhould be granted in *Ireland*, as the Statute of the Queen did, that *Ireland* ſhould be ſubject to *the ſame Eccleſiaſtical Authority*, and *in the ſame manner* that *England* was: nor is it to any purpoſe for him to cite the Declarations in the late Statute of the illegality of ſuch Commiſſions; unleſs that Act had damn'd ſuch Commiſſions, not only as being contrary to the Act of Repeal, but not to be warranted by the *Statute* of the Queen: but then this would have condemned the Reſolution which he cites, of the Authority of ſuch Commiſſions ſtill in *Ireland*.

2. Admit Mr. *M.* ſhould prove, that the Statute made in *England*, taking away the Authority of ſuch *Eccleſiaſtical Commiſſions* here, as plainly intended to reach *Ireland*, 'twill afterwards appear, that unleſs Mr. *M.* ſhew, that this Act had been *tranſmitted* to *Ireland*, under the Great Seal of *England*; the ſuppoſition that ſuch Commiſſions may ſtill be legally executed in *Ireland*, will not in the leaſt derogate from the Authority of the Parliament of *England*.

The Power of England *not departed from, but duly exerciſed.*

3*dly*, But how contrary his ſuppoſal of an independent Authority in the Parliament of *Ireland*, is not only to the Laws of reaſoning, but the Authorities of all times, from *H.* 2. downwards, has already appeared in ſome meaſure; and may farther by ſome Authorities out of many, which will manifeſt, that the Rights of the *Crown* of *England* to impoſe Laws upon *Ireland*, by virtue of prior *ſubmiſſions* and *conſent*, is ſo far from being departed from, that 'tis ſtrengthned and confirmed, by long exercice and ſubmiſſion to it.

Mr.

Mr. *M.* conſidering the State of the Statute-Laws of *England*, under *H.* 2. King *John*, and *H.* 3. agrees, That " *by the Iriſh voluntary ſubmiſſion to, and acceptance of the Laws of* England, *we muſt repute them to have ſubmitted themſelves to theſe likewiſe, till a regular Legiſlature was eſtabliſhed among them, in purſuance of that voluntary ſubmiſſion, and voluntary acceptance.* P. 57 & 58.

Yet he ſoon forgets this Conceſſion, and would have it, that the men of *Ireland* were not bound by new Laws, but that the Grants of Liberties from *Edward* the *Confeſſor*'s time, down to *H.* 3. were only declaratory Laws, *and confirmations one of another*; *and that thus* Ireland *came to be govern'd by one and the ſame common Law with* England. P. 62. P. 63.

I muſt confeſs I could not but ſmile at his Marginal Note upon the proceedings of the Parliament at *Oxford* in the Reign of *H.* 2. *by this* Ireland *made an abſolute ſeparate Kingdom:* And in the Body of his Book he ſays, " *We ſhall obſerve that* " *by this donation of the Kingdom of* P. 40.

" Ireland *to King* John, Ireland *was*
" *most eminently set apart again as a*
" *separate and distinct Kingdom by it*
" *self, from the Kingdom of* Eng-
" land; *and did so continue until the*
" *Kingdom of* England *descended*
" *and came unto King* John.

But to help him to understand this matter, I shall mind him of another passage in *Hen.* II's Reign. As he placed his Son *John* in *Ireland*, he, to secure the Succession of the *Imperial Crown* of *England* to his eldest Son *Henry*, caused him, in a * *Parliament*, to be chosen and made King of *England*, while *Henry* the Father was alive.

* Vid. Bened. Ab. in Bib. Cott. & al. Author.

Now, did the Father by this, separate *England* from his own Jurisdiction? No, certainly; and indeed, in the Oath to the Son, and the homage perform'd, both at the Coronation and afterwards, by the King of *Scots*, there was a particular saving of the *Allegiance* and *Homage* due to the Father.

Thus both *Hoveden* and *Bromton* shew that 'twas, in relation to the constituting *John* King of *Ireland*, as

as they call him: they are expreſs, that they to whom the Lands of *Ireland* were diſtributed, in that very *Parliament* which gave *John* his Office and Authority, were ſworn to the Father and the Son. And Mr. *M.* might have obſerv'd, that a Charter paſs'd in that Parliament, and cited by Sir *John Davis*, grants to *Hugh de Lacy* large Territories in the County of *Methe*, to hold of *H.* 2. and his Heirs. Whereas if *Ireland* had been given, as Mr. *M.* will have it, to *John, and that thereby 'twas made an abſolute Kingdom, ſeparate and wholly independent on* England; The Tenure muſt have been of *John* and his Heirs. * The Oath of Allegiance, which in thoſe days uſed to have no mention of Heirs, was to *H.* 2. as King of *England*, and went along with the Crown; but the Tenure reſerved, was expreſly to the Heirs of *H.* 2. which muſt relate to the legal Succeſſors to the Crown of *England*; ſince as King he could have no other Heir.

Davis *Rep.* F. 64. b.

P. 148.

* Vid. leges W. 1. de fide, &c. Regi dominо ſuo.

But as this may manifeſt, that the Parliament which made *John* King of

of *Ireland*, deſign'd him no more than a ſubordinate and vicarious Authority; 'tis plain he himſelf did not think he had more: in the Seal which he uſed, he ſtiled himſelf *Son* * *of the King*, *Lord*, or *who is Lord, of* Ireland. Nor is there the leaſt footſtep of any Coronation Oath taken by *John* as King of *Ireland*; or that he ever wore an *Iriſh Crown*.

* Vid. Sandford's *Genealogical Hiſt. referring to a Charter in the* Cotton *Library*. Sigillum Johannis filii Regis, domini Hiberniæ. P. 41.

Notwithſtanding that ſhare in the Government of *Ireland* which *John* had in his Father's life-time; *Ireland* upon the Father's death fell to *R.* 1. and the Archbiſhop of *Dublin* was aſſiſting at his firſt Coronation, before he went to the Holy War: Nor did *John* ever pretend to be King of *Ireland*, while *R.* 1. lived, more than of *England*; which having attempted, while his Brother was in Foreign parts far remote; upon his Brother's return, he was, by * Parliament, deprived of all his *Honours*, and *Fortune*: And thus, at leaſt, he loſt his ſuppos'd Royalty of *Ireland*, if it did not expire upon the death of *H.* 2. and this

Vid. *Sandford*, ſup.

**Polidore Virg.* f. 255. Habito concilio, &c. de concilii ſententia honoribus atq; fortunis privatus. Thorn. int. decem. ſcript. col. 1868. Fuit citatus, accuſatus, & judicio coram paribus ſuis per eos legitimè tanquam proditor condemnatus. *Mat. Par.* Addit. f. 281.

this ſhews how rightly *Polidore* judged, in calling him (*b*) *Regulus*, or *Viceroy*.

I will therefore admit Mr. *M*'s ſuppoſal, that *R.* 1. (*c*) had not died without Iſſue, but *his Progeny had ſat on the Throne of* England, *in a continued ſucceſſion to this day*; but cannot admit the other part of his ſuppoſal, that the *ſame* had been in relation to the *Throne* of *Ireland*; ſince *John* never had ſuch Throne, either before he was King of *England*, nor after: and therefore I may well conclude, that the *ſubordination* of *Ireland to the Parliament*, *or even to the King of* England, need not *ariſe* from any thing that followed after the *deſcent* of *England* to King *John*. Nor indeed was *John* King, either of *England* or *Ireland*, by deſcent; but that Election of the States of the Kingdom of *England*, which made him their King, preferring him before *Arthur* an elder Brother's Son, drew after it the *Lordſhip* of *Ireland*, as an Appendant to the Crown of *England*: And however, if *H.* 2. had not ſufficiently brought the Iriſh under the Engliſh Laws, *John* did after he came to be King of *England*.

In the 9*th* of his Reign, he (*a*) impoſed Laws upon them in a Parliament of *England*; not indeed without the deſire and counſel of ſuch Engliſh Lords who had Lands in *Ireland*; but then their conſent would

(*b*) Ib. F.236. Oxoniam profectus, &c. Johannem fil. totius Hiberniæ regulum facit.

(*c*) P.41,42.

(*a*) Rot. Pat. 9. J.p.1.m.2.n.8. Ad voluntatem & conſilium dilector. & fidelium noſtror. Com. W. Mareſc. & Walt. de Lacey & al. Bar. noſtrorum Hiberniæ, qui nobiſcum fuerunt in Angl. & per conſilium fidelium noſtrorum in Angl. Quod latrones Hibern. expellantur de terra noſtrâ Hibern. &c.

would have been involved in the consent of the majority here, tho those Lords should have expresly dissented: But the Authority was derived from the consent of the King's *faithful People*, which is mentioned as distinct from the desire or *petition*, which occasioned the Law then made in a Parliament of *England*; for the expelling Thieves and Robbers out of the King's Land of *Ireland*.

For the effectual execution of this Act of Parliament, King *John*'s Expedition seems to have been undertaken the next year, when he (*b*) entirely *subdu'd his Enemies*; and (*c*) confiscated the Estates of some of the English great Men in *Ireland*: Which Confiscation seems to have been after his return to *England*; but before that, or at some other time in his Reign, he made a Law in *Ireland*, which he *commanded to be observed there*, That * *all the Laws and Customs which are in force in* England, *should be in force in* Ireland; *and that Land be subject to the same Laws, and be govern'd by them.* This was before any pretence to their having any Charter for a Parliament, other than the supposed sending over the *modus tenendi Parl.* by *H.* 2. and is before the time that Mr. *M.* † takes a *regular Legislature* to have been *established* among them: Therefore according to himself, *we must repute them to have submitted*, not only

(*b*) Annales de Margan. Ann. 1210. Jo. 11. f. 14. Hostibus ex voto subactis.

(*c*) Vid. ib. de Lacy Comultorum W. de Breusa Walt. de Lacy, &c. Fecit confiscari omnia bona proscriptorum Principium quæ multa fuerunt in Angl. in Wal. & Hibernia.

* Pat. 30. H. 3. m. 1. Quod omnes leges & consuetudines quæ in Regno Angl. tenentur, in Hibern. teneantur, & eadem ter. eisdem legibus subjaceat, & per easdem regatur, sicut dominus R. J. cum ultimo esset in Hibern. statuit & fieri mandavit.

† *P.* 58.

only to ſuch Laws as had before that time been made in Parliaments of *England*, but ſuch as ſhould be made, till they of *Ireland* ſhould have the eſtabliſhment of a *regular Legiſlature*.

However Mr. *M.* will have it, that *John* gave Laws to *Ireland*, * *not as King of* England, *but as Lord of* Ireland; and forms a pretty ſort of an *Argument* from the ſtile of *Lord* of *Ireland*: as if this were an *Argument*, that 'tis not dependent upon the Crown of *England*; ſo excellent a faculty has he of making contraries ſerve his purpoſe. But 'tis very unlucky, that *John*'s retaining this ſtile is not only an Argument that *Ireland* is a *Dominion*, or *Land*, appendant to the Crown of *England*; but that *John* was never *King* † of *Ireland*, which he would certainly have kept up as a diſtinct Intereſt, if he ever had ſuch a Title ſeparate from the Crown of *England*.

* P. 54.

† Vid. Rot. Cart. 16. Johannis. Rex Angliæ, Dominus Hibern. Dux Norm. & Aquitaniæ, Comes Audegav.

H. 3. being made K. of *England* by the like choice of the *States*, which preferr'd him before *Arthur*'s Siſter, as they did *John* before the Brother; in concurrence with theſe *States*, truly acted as Lord of *Ireland*, as might be ſhewn by numerous Inſtances.

In the 18*th* of his Reign, upon matters ſignified to him out of *Ireland*, he ſummoned the *Archbiſhops*, *Biſhops*, *Earls*, *Barons*,

Rot. clauſ. 18 H. 3. m. 27.

Barons, and all the *great Men*, or *Nobility* of the Kingdom of *England*, to ‖ a Parliament at *London*, to treat about the State of his Kingdom, and of his Land of *Ireland*.

And in the 21 † of his Reign, he sends a Writ to the Archbishops and others * of *Ireland*, acquainting them that by the *common* consent of the *Archbishops*, *Bishops*, *Abbots*, *Earls*, and *Barons* of the Kingdom of *England*, alterations of the Law of *England* were enacted, as to the Limitations of several Writs; which were then required to be observed in *Ireland*, in pursuance of the Statute of *Merton*.

In † the 37*th* of his Reign, an Irish man having pleaded, that he and his Brother, and their Ancestors, had always bin faithful to the Kings of *England*, his Predecessors, and served them in the CONQUEST OF THE IRISH; they are, by peculiar licence under the Great Seal of *England*, admitted to enjoy by descent, as Englishmen. Which was an alteration of the (*a*) Law, and Custom of *Ireland*, as to those particular Persons, without any Act of Parliament there.

Indeed, but four years after 'tis (*b*) recorded, that 'twas (*c*) *long before*, and (*d*) *many Ages past*; which must reach beyond the *Expedition* of *H.* 2. provided and

‖ Regni nostri Angl.

† Rot. Pat. 21 H. 3. m. 10.

* Ad tractandum nobiscum ibidem super his & aliis statum nostrum, & terræ nostræ Hibern. tangentibus.

† Rot. Claus. 37 H. 3. m. 15. Firmiter ad fidem & servitium nost. & prædecessor. nostrorum Regum Angl. ad conquestum una cum Anglicis faciend. super Hibernienses.

(*a*) Vid. *Sir* John Davis de Tanistry.

(*b*) 41 H. 3. m. 11.

(*c*) Dudum.

(*d*) Multis retroactis temporibus, *which Mr.* Pryn *by mistake has* omnibus.

and yielded, by the *aſſent* and *deſire* of the *Prelats*, and *great Men* of the *Land* of *Ireland*, that they ſhould be bound by the Laws us'd in the Kingdom of *England*: Yet the ſame Record reſtrains this to the *conſent* of only the (*e*) *Engliſh* of the *Land* of *Ireland*. However 'tis beyond diſpute that the Engliſh Laws, both made and to be made in *England*, were then held to reach as far as the Engliſh Intereſt in the Land of *Ireland*: and this, according to the Record 18 *H.* 2. above referr'd to, was provided *de communi Conſilio Regis*, by the *King's Common Council*: tho by what Council, it muſt have been *provided*, will more fully appear afterwards, I may here explain it by an Inſtance in that Reign.

(*e*) Omnibus Anglicis terræ Hibern.

All muſt agree, that the Proviſions of *Oxford*, in the 43*d* of *H.* 3. and referr'd to in the Records of the next year, were made in as true a Parliament as any in that Reign before the 49*th*: 'tis call'd a (*g*) *Parliament* by good Authors, and the word is uſed in the Records of the next (*a*) year, in relation to a meeting on the Borders of *Wales*. The (*b*) *Ordinances* and *Proviſions* made at *Oxford*, were drawn up by 12 choſen by the King, and 12 by the *Commons*; concerning which the Record has theſe words,

* Rot. Pat. 18 H. 3. ſup. Rex vult ut de communi conſilio Regis proviſum eſt quod omnes leges, &c.

(*g*) Annales Monaſt. *Burton.* f. 411.
(*a*) Rot. Clauſ. 34 H. 3. m. 7. d.
(*b*) Annales *Burton*, ſup. In eod. Parl. apud Oxon. xxiv. electi, viz. xii. ex parte domini Regis, & totidem ex parte communitatis.

Anno

Rot. Claus. 44 H. 3. m. 18. dorso.

Anno ab incarnat. domini 1259. Regni autem H. Regis fil. Regis J. 43. in quindena St. Mic. conven. ipsi domino Rege & magnatibus suis, de communi consilio & consensu dictor. Regis & magnatum, factæ sunt provisiones per ipsos Regem & Magnates.

In the year from the incarnation of our Lord 1259. *but of the Reign of K.* Henry, *Son of K.* John, *the* 43*d, the said King and his great Men, being assembled in the Quinzism of St.* Michael, *Provisions were made by the Common Council, and consent of the said King, and great men.*

And yet some of the Entries in the same Roll, mentioning Provisions then made, are, (*c*) *per magnates nostros qui sunt de consilio nostro*, "By our great "Men of our Council. Others, (*d*) *Per magnates de Consilio meo*, "By the great "Men of our Council. As if 'twas by the sole Authority of the King, and such noble Men as were of his Privy or Private Council; wheu those Provisions were certainly made in full Parliament: and this was the Council from whence *Ireland* then receiv'd its Laws.

(*c*) Rot. Claus. 44 H. 3. dors. m. 18.

(*d*) Ibid.

Object.

However from a Charter in the first of that King's Reign, Mr. *M.* would infer, that the *English* there had their *independent Parliaments* then established, or confirmed, tho he afterwards admits, that during that King's Reign they might

P. 45.

might have been bound by Laws made here for want of *a* (*a*) *regular legiſlature eſtabliſh'd amongſt them.* (*a*) P. 58.

The (*b*) Charter, or rather Writ with which a Charter was ſent, runs thus. (*b*) P. 47. Pat. 1. *H.* 3. m. 13. intus.

Rex Archiepiſc. Epiſc. Abbatibus, Comitibus, Baronibus, Militibus & omnibus fidelibus ſuis per Hiberniam conſtitutis ſalutem. fidelitatemveſtram in Domino commendantes, quam Domino Patri noſtro ſemper exhibuiſtis, & nobis eſtis diebus noſtris exhibituri; volumus quòd in ſignum fidelitatis veſtræ tam præclaræ, tam inſignis, libertatibus Regno noſtro Angliæ à patre noſtro & nobis conceſſis, de gratiâ noſtrâ & dono, in Regno Hiberniæ gaudeatis; quas diſtin-

The King to the Archbiſhops, Biſhops Earls, Barons, Kts. and all our faithful Subjects conſtituted throughout Ireland, *Health. Commending your fidelity in the Lord which you always ſhewed to your Lord our Father, and are about to ſhew to us in our days; we will that in ſign of your fidelity ſo remarkable, ſo eminent you enjoy in our Kingdom of* Ireland, *the Liberties granted to our Kingdom of* England, *by our Father & us; which,* diſtinctly reduced into Writing, we ſend you, by the

ctè in scriptum reductas, de communi consilio omnium fidel. nostrorum vobis mittimus, signatas Sigillis Domini nostri G. Apostolicæ sedis Legati, & fidelis nostri Comitis Mareschalli, Rectoris nostri & regni nostri; quia sigillum nondum habuimus, easdem processu temporis de Majori consilio proprio Sigillo signatur.

Common Counsel of all our faithful People: *Sealed with the Seals of the Lord G. Legate of the Apostolick See, & of our faithful Subject W. Earl Marshal Regent of us and our Kingdom; because we have not yet a Seal, intending in process of time by consent of a greater Counsel to seal them with our own Seal.*

Teste at Gloster, 6. Feb.

Teste apud Glost. 6. Feb.

Answ. How specious soever this may seem, 'twill neither prove *Ireland* to have been a *Kingdom* so early, nor to have had a grant of the *English Liberties*, in the same manner as the *English* enjoyed them; that is, so as to have no Law imposed upon them without their

their *expreſs and immediate conſent*, to that very Law. For,

1. 'Tis not to be ſuppos'd, but that if *Ireland* had been a *Kingdom* before this Charter, *H.* 2. and other Kings of *England* would have ſtiled themſelves *Kings of Ireland*, rather than *Lords*, becauſe of the greater Dignity of *Kingſhip*; unleſs *Lord* was choſen as implying more abſolute Power; which would argue that *Ireland* did not enjoy the *Engliſh* Laws with equal Freedom.

2. This Writ mentions no *Liberties* granted to *Ireland*, but what had been (*a*) granted to *England*; which beſides the improbability that *Ireland* ſhould 1 *H.* 3. have a Charter of the (*b*) ſame form with that which did not paſs in *England* till 8 Years after, ſhews the ſpuriouſneſs of the ſuppos'd *Charter* preſerved in the (*c*) *red Book* of the *Exchequer* at *Dublin*, as dated the *November* before the Charter ſent the 6th. of *February*: and however, the conſtant (*d*) method of ſending Laws from hence to

(*a*) Regno noſtro Angl. conceſſis.

(*b*) P. 45.

(*c*) P. 46.

(*d*) Vid. Inf. temp. E. 1. & deinceps.

be applyed to the use of the *Irish*, without any alteration; may sufficiently detect that Charter, which has the City of *Dublin* instead of *London*. P. 45.

3. The method of sending to *Ireland* the Laws made here, besides what appears upon the face of the Record 6. Feb; may satisfie any Body that 'twas only a Writ which went along with a Charter or Charters of Laws, passed in Parliament here.

4. This *Writ* was before any confirmation of the *English Liberties* by *H.* 3. other than general at his Coronation; and therefore bating such Confirmation, the *Charter* of *Liberties* then sent into *Ireland*, must have been *King John*'s which (if it be read according to the due distinction of Periods, and that Translation which the course of Records both before and after enforces, and which the prevalence of Truth has obliged Dr. *Brady* to yeild, to the giving up his whole Controversie with Mr. *Petyt*, and the Au-

thor

thor of *Jani Anglorum Facies Nova*) makes expreſs Proviſion for the *City of London*, all *Cities*, *Burroughs*, and *Vills* of the Kingdom of *England*, to enjoy all their *Liberties* and *Free-Cuſtoms*, and, among the reſt, to be of, or to be repreſented in, the *Common Council* of the Kingdom.

Brady's *Append. to his compleat Hiſtory* f. 131. *And ſhall have the Common Advice of the Kingdom concerning the Aſſeſſments of their Aids.*

But *Ireland* had no *City* of *London* to claim this Privilege; nor could any City of *Ireland* be included, any otherwiſe than as part of the Kingdom of *England*, and therefore ſubject to the Laws which ſhould be made here.

2. This could not be as extenſive to *Ireland* as 'twas to *England*; ſince it could not have extended beyond the *Engliſh Pale* there, and ſuch particular Diſtricts as enjoy'd the *Engliſh Laws*, of *ſpecial Favour*.

Therefore the Charter then ſent by *H.* 3. could, as to this Matter, be no more than a Memorial of that Supreme Law, according to which, *England*, with all the Dominions belonging to it, was

to be Governed, and an assurance that they should have no Laws imposed upon them, in any other manner, than upon such of the *English* here, as had no Votes in the making Laws. But one end at least of the sending over that Charter must needs have been, suitable to the declared end of a Subsequent sending King *John*'s *Charter*, when the *Justice of* Ireland was required to Summon, not only the *Great Men*, but the *Free-holders* of every *County*, who after the Laws had been read to them, were to swear to the observance of them; beside which they were to be Proclaim'd in the several *Counties*.

F. 52, 53. *Claus.* H. 3. m. 8.

5. Admit the *Charter* sent to *Ireland* 1. *H.* 3. had given the *Irish* Liberty to hold *Parliaments*, with *Representatives* from all parts of that Land, according to the *English* Form; This Liberty was derived from a *Convention* of the *States* of the *Kingdom* of *England*, or *Parliament*, in the Minority of a *King*, who had no Judgment of

of his own; was under the Government of a Subject whom the *States* had ſet *over him* and the *Kingdom*; and that *King* was manifeſtly Choſen by them, to the ſetting aſide *Eleanor*, who had the Right of Deſcent as far as that could avail: So that, the King could have no pretence to the imaginary divine Right of Succeſſion; and therefore that Charter muſt have been derived from the Grant of the People of *England*. And beſides, the Record ſhews that this, tho' ſent by the advice of all the *King's faithful People*, was thought to want ſome Formality to make it a *Parliament*: the Aſſembly in which it was adviſed, being held by a *Regent*, may be thought to have occaſioned the reference to a *greater* (*a*) or more ſolemn *Council*: However, ſuch reference ſhews, that 'twas not their Intention to be concluded by what was then done; and when a Charter is (*b*) afterwards ſent over in full Form; then there's not a word of *Conceſſion*, but an

(*a*) De Majori conſilio.

(*b*) Vid. Rot. Clauſ. 12. *H.* 3. 8. De legibus & conſuetud. obſervandis in Hib. Cited p. 52, 53.

abſolute *Command*, that the Laws be *publiſh'd* and *obey'd*.

However, take the *Charter* ſent them 1. *H.* 3. in the utmoſt extent imaginable, 'tis not to be thought, that while the *Engliſh Parliament* gave thoſe of the *Engliſh Pale*, or others in *Ireland*, *Liberty* to hold *Parliaments*, they diveſted themſelves of that Authority by which they gave *ſuch Liberty*.

To uſe the Words of the great Man *Grotius*,

Grot. de Jure belli & pacis.

Se, per modum legis, id eſt, per modum ſuperioris, obgare nemo poteſt. Et hinc eſt, quod legum Auctores habent jus leges ſuas mutandi. Poteſt tamen quis obligari ſuâ lege, non directè ſed per reflectionem ex æquitate naturali, quæ partes vult componi ad rationem integri.

No Man can bind himſelf by way of Law, that is as a Superior. And hence 'tis, that Law-makers *have Right to change their Laws. Yet one may be bound by his own Law, not directly, but by reflexion from natural Equity, which requires the parts to be compos'd with reſpect to the whole.*

6. Ad-

6. Admit the Charter ſent 1. *H.* 3. being by conſent of the States of the Kingdom of *England*, ſhould be taken for an abſolute departure from Power before veſted in them; then it ought to be taken *Stricti juris*, and to confer no Rright beyond what is expreſs'd: And therefore,

1. The Men of *Ireland* had a Grant only of *ſuch Liberties* as were ſent them (*a*) *diſtinctly reduced into Writing*: And unleſs the uſual Practice of ſending over the Laws made here be taken to explain this, or they ſhew the very Charter then ſent; 'tis to be ſuppoſed, that *only ſuch Liberties were Expreſſed* and Granted them, as were proper for an *Appendage to the Crown of* England.

(*a*) Quas diſtincte in Scriptum reductas.

2. If all King *John's Charter* were ſent them, (which I may well admit, according to the explanation of the following uſage;) unleſs they can prove, as we can here, that before that time they had *Common Councils of all the Land of* Ireland, for all Matters of

of Publick concern, and that the Maxim here had obtain'd there; *Those things which concern all, ought to be treated of by all*; the only end of *Common Councils* of the *Kingdom* of *England*, expreſſed in *King John's Charter*, being in relation to the principal Grievance about the raiſing of *Aids* to the Crown; the Grants to *Ireland* could extend no further, than a Liberty to have ſuch a *Council* for the raiſing Aids.

(b) Quæ omnes tangunt ab omnibus tractari debent.

And there's no doubt, but more Money may be rais'd by ſuch *National Conſent*, than can be in the moſt Arbitrary way: which abates the force of the Argument, from *H.* 3. his deſiring the *Archbiſhops*, *Biſhops*, *Abbots*, *Priors*, *Earls*, *Barons*, *Knights*, *Freemen*, *Cities*, and *Burroughs of the Land of* Ireland, to Aid him as much as they could, with Men and Money.

(i) P. 50, 51. 3. *H.* 3.

And hence, tho' 'twould have been no breach of *King John's* Charter, for the *King* to raiſe Aids of his *Tenents in Chief*, for making

ing *his Eldeſt Son a Knight*, without calling for them to any *Council*; that being one of the exceptions out of the Liberties expreſſed in that Charter; yet *H.* 3. writ to the *Archbiſhops, Biſhops, Abbots, Priors, Earls, Barons, Knights, and all his Freemen of the Land of* Ireland, intreating them to give him *ſuch an Aid*.

Rot. Pat. 37. *H.* 3. pars 2. m. 10.

6. After all, to ſhew how little there is in his mighty Argument from the Writ 1. *H.* 3. Let him take his choice, either that the *Engliſh* in *Ireland* had a *Parliament*, granted, or confirmed to them by the *Charter* ſent along with the Writ 1. *H.* 3. or they had not.

If they had, then thoſe Laws which were made here after ſuch Eſtabliſhment, in purſuance of the deſire of them from *Ireland*, ſhew that neither the *Parliaments* of *England*, nor they of *Ireland* thought they had any Power to make Laws there. If there was no Grant or Confirmation of any *Parliament* there, then the Conceſſion

ceſſion of *Engliſh Laws and Liberties*, was no more than a Declaration, that they ſhould be governed by the Laws made, and to be made by *Parliament* in *England*, or receiv'd there by the conſent of the People, giving Force and Authority to their own approved Cuſtoms.

But ſince after all Mr. *M.*'s learned Flouriſhes about the Setling of *Parliaments* in *Ireland*, by the Modus ſent over in the time of *H.* 2. and ſubſequent Grants; he admits that under the 3 Kings, *H.* 2. *King John*, and *H.* 3. *and their Predeceſſors, we muſt repute them to have ſubmitted to the Laws made here in thoſe Reigns*, for want *of a regular Legiſlature eſtabliſh'd among them*; And ſince, whatever he admits, there's no Colour of ſuch an Eſtabliſhment by the end of *H.* 3. Let's ſee what can be found in the next Reign.

P. 58.

E. 1. having in his abſence from *England* upon the Death of *H.* 3. his Father, been *Elected and Declared King of* England, *in a full Con-*

Convention of the States of this Kingdom; in a (*a*) Writ ſent by thoſe *States* to *Ireland*, 'tis affirm'd, that *the Government* of *England*, and the *Dominion* or *Lordſhip* of the *Land* of *Ireland*, belonged to him by *Hereditary Succeſſion*; not that he was held to be King by a meer Right of Deſcent, but as the (*b*) *Ritual* of the Coronation of *H.* 1. and the Writ for Proclaiming the Peace of *E.* 1. in *England*, and Authors of the time ſhew, the *Election* of the *States* of *England* placed him in the (*c*) *Inheritance* of the *Crown*: therefore the *States* of *England* declare to the Subjects of *Ireland*, that they were bound to take the like Oath of *Allegiance* as the *Engliſh* had done; and this is *required* of them by the *States* here, under *the Great Seal of England*: nor is there colour to believe, that there was any Summons to *Ireland* for any from thence to come to that *Convention*; nor, indeed, was there time for ſuch Summons and return, before that meeting; notwithſtanding Mr. *M*'s aſſertion of this

Of the Authority of the Parliaments of England, *exerciſed over* Ireland *in the time of* E. 1.

(*a*) Rot. Clauſ. 1. E. 1. m. 20. De conſervatione pacis in Hibern.

(*b*) Hæreditario judicio.

(*c*) Clauſ. 1. E. 1. m. 11. Quia defuncto jam celebris memoriæ Dom. H. Patre noſtro ad nos regni gubernaculum ſucceſſione hæreditariâ ac Procerum regni voluntate & fidelitate nobis præſtita ſit devolutum.

(a) P. 96. this Reign in particular, (a) that the Laws made in *England* and binding them, were *always* enacted *by their proper Repreſentatives*; meaning, *Repreſentatives choſen in Ireland*: the reaſon for which he there brings from ſuppoſed inſtances in the Reign of *E.* 3. ſeeming not to rely upon his Quotation from the *white Book* of the *Exchequer* in *Dublin* but the Page be-

(b) P. 95. fore, which 9 *E.* 1. mentions (b) Statutes made by the King at *Lincoln*, and others at *York*, with the aſſent of the *Prelates*, *Earls*, *Barons*, and *Commonalty* of his *Kingdom* of *Ireland*. Which, if it implyed the preſence of the *Commonalty* of *Ireland*, would be an Argument, that all their Rights were concluded by the *Tenants in chief*, who had Lands in *Ireland*, but were Members of the *Engliſh Parliament* by reaſon of their Intereſt here: but in truth, this ſhews no more than that, at the requeſt of thoſe of *Ireland*, the *Parliament* of *England* had enacted thoſe Laws; and the Record in their *white Book* is only a Record of the

tranſ-

tranſmiſſion from hence; and proves that, ſuitably to the practice both before and after that time, they in *Ireland* had no *Parliaments* for enacting Laws, but were forc'd to Petition to have them enacted here; and what was enacted upon their *Petition* was truly with their *Aſſent*. But then the Queſtion will be, whether in the Laws made in that *King*'s Reign with intention to *bind Ireland*, their Conſent is generally expreſſed, or implyed, any otherwiſe than from the nature of their former *ſubmiſſion* to be govern'd by the *Engliſh Laws*. But if our *Acts* of *Parliament*, and *Records* concerning them, are clear in any thing, they certainly are in this, *that the Parliament of* England *then had, and exercis'd, an undoubted Right of binding* Ireland, *without their immediate conſent by any Repreſentatives choſen there*: Mr. *M.* indeed, (tho' as I have before obſerv'd, he admits that *Ireland* was bound by Acts of Parliament here, till the end of the Reign of *H.* 3. for want

(*a*) P. 58.

want of a *regular legislature among themselves*; yet, suitably to his usual inconsistencies, upon the enquiry, where, (*a*) and how, the *Statute Laws and Acts of Parliament* made in *England* since the *9th.* of *H. 3. came to be of force in* Ireland) will have it, that none of them made here, without Representatives chosen in *Ireland*, were binding there, (*b*) till receiv'd by a suppos'd Parliament 13 *E.* 2. yet it falls out unluckily, that they have *Statutes* in Print 3 *E.* 2. which speak not a word of Confirming the Laws before that time made in *England*; and yet no Man will question, but Statute Laws of *England* made in the Reign of *E.* 1. were a Rule which the Judges in *Ireland* went by, before the time of *E.* 2. And that all Judgments given in *Ireland* contrary to any Law transmitted thither, under the Great Seal of *England*, must, upon Writs of Error, have been set aside here as Erroneous.

(*a*) P. 63.

(*b*) P. 64.

But let's see whether our *Parliaments* in the time of *E.* 1. had such

ſuch a defference to the *Iriſh Legiſlature*, or that the *Engliſh* in *Ireland* then made any ſuch pretenſions as Mr. *M.* advances.

If we Credit *Judge Bolton*, our Statute Weſtm. 1ſt. which was 3 *E.* 1. was firſt confirm'd in *Ireland* 13 *E.* 2. and till then, according to Mr. *M.*'s Inferences from their receiving or publiſhing Laws made here, that Statute was of no force in *Ireland*, being (*d*) *Introductory of a new Law* in ſeveral particulars; as among other things, in Subjecting *Franchiſes* to be ſeized into the *King's Hands* for default of purſuing *Felons*, and in Enacting, not only the Impriſoning and Fining Malefactors in *Parks*, and *Vivaries*, but forcing them to *Abjure the Realm*, if they could not find Sureties for their good Behaviour.

(*d*) P. 99. *Before the Year* 1641. *there was no Statute made in* England *Introductory of a New Law*, &c.

This Act does not Name *Ireland*, but the King *Ordain'd* and *Eſtabliſh'd* it by *His Council*, and by the aſſent of the *Archbiſhops*, *Biſhops*, *Abbots*, *Priors*, *Earls*, *Barons*, and all the *Commonalty of*

the Realm thither Summoned; for the mending the Eſtate of the *Realm*, for the *Common profit of the holy Church of the Realm*; and as *Profitable and Convenient for the whole Realm.*

However that *Ireland*, as part of the *Realm*, was bound by this Law, and by other Laws made 11, 12, and 13 *E.* 1. without any regard to *Parliamentary* Confirmations in *Ireland*; and that for enforcing Obedience to thoſe Laws, 'twas enough to ſend them thither by ſome proper *Meſſenger*, under the *Great Seal of* England, if not without, appears by the Proceedings of the Parliament at *Wincheſter*, holden the *Oct.* after the *Parliament* of *weſtim.* 2. (*a*) Mem. quod, *&c.* "Mem. that on *Friday* "in the Feaſt of the Exaltation "of the Holy Croſs, in the 13*th.* "Year of the King, at *Wincheſter* "there were deliver'd to *Roger* "*Breton*, Clerk to the Venerable "Father *William*, Biſhop of *Water-* "*ford*, then *Juſtice of Ireland*, cer- "tain Statutes, made and provi- "ded

(*a*) Pryns Animad. f. 256. 13. *E.* 1. m. 5. de Statutis liberatis. Et Rot. Strat.

" ded by the *King*, *and His Coun-*
" *cil*, viz. The Statutes of *Weſt-*
" *minſter*, made ſoon after the
" King's Coronation, and the Sta-
" tutes of *Gloſter*, and *thoſe made*
" *for Merchants*, and the Statute
" of *Weſtm.* provided and made in
" the *King's Parliament at Eaſter*;
" *to be carried to* Ireland, *and there*
" *to be Proclaimed and Obſerved.*

Prynn *omits* Regis *which is in the Record.*

(*b*) In Hiberniam deferenda & ibidem proclamanda & obſervanda.

It appears that among the Statutes delivered to the *Chief Juſtices Clerk*, in order to their being *publiſhed and obſerved in* Ireland, one was the *Statute concerning Merchants* 12. *E.* 1. for the enforcing and improving a Statute made at *Acton Burnel* 11. of that King; that of *Acton Burnel* provides a remedy for Debts to Merchants, to be had by calling the Debtor before the *Mayor* of *London*, *York*, or *Briſtol*, or before the *Mayor*, *and a Clerk* to be appointed by the *King*: which, as it ſeems, 'twas intended that the King ſhould have Power to appoint, in other *Cities* or *Towns* within his Kingdom: Accordingly, the Statute 12. *E.* 1. ſays, the King

had commanded it to be firmly kept (*a*) *throughout his Realm*: and that Parliament 12. for declaring or explaining ſome of the Articles of the former Statute, names the *Mayor* of *London*, or the *Chief Governour* of *that City*, or (*b*) of *other good Town*: This Statute expreſly *Ordains and Eſtabliſhes*, that it be thenceforth held throughout the *King's* (*c*) *Realm of England, and of Ireland*: And it enacts the form of a Writ upon that Statute; which was to be current in *Ireland* upon ſeveral accounts. 1. By the Letter of that Law, which was ordain'd for the Benefit of Merchants in *Ireland*, as well as in *England*. 2. If it had not been named, the being tranſmitted to *Ireland* from a *Parliament* here, was a ſufficient ground for their obſerving it. 3. Such obſervance was included in the terms of their Submiſſion, above one Hundred Years before. 4. The Writ, without any particular Proviſion, became a legal and current Writ in *Ireland*, by virtue of

(*a*) En tout ſon Royaume.

(*b*) Ou de auter bon ville.

(*c*) Per tout ſon Royaume D'Engleterre & D'Irland.

of an Act of Parliament here, 30 *H.* 3. which, (*a*) *for the common Profit of the Land of* Ireland, *and unity of the King's Lands*, provided, that the Common Law Writs ſhould have the ſame currency in *Ireland*, that they have here.

(*a*) Prynn's Animad. f. 254. 30 H. 3. m. 1. Quia pro communi utilitate terræ Hiberniæ & unitate terrarum Regis Rex vult ut de communi conſilio Regis proviſum eſt.

Without enquiring what Records they have in *Ireland*, of *Statutes Staple* from the 13*th* of *E.* 1. when this Statute which ſettled them was ſent thither; 'tis certain, that from that time the *Engliſh* in *Ireland* were bound by it, and ſo held to be in (*b*) ſubſequent Statutes of this *Realm*, confirming this Statute, or ſupplying its defects.

(*b*) Vid. 28 E. 3. & 43 E. 3. c. 1.

But what pity 'tis, that neither *Judge Bolton*, nor Mr. *M.* thought of an Act of Parliament in *Ireland* to confirm that Statute 12 *E.* 1. This was enacted in the Year 1284. which was above 350 Years before that fatal *Æra* of Innovations 1641; from whence it ſeems Calamities of all kinds are to be dated. But, I ſhould think, here is at leaſt one *poſitive Precedent* before that time, *of an Engliſh Act of Parliament*

p. 99, 103, 105

ment's binding the Kingdom of Ireland.

And to me it seems as plain, that in the Judgment of the Parliament 13 *E.* 1. *Ireland*, tho not named, was bound by a Statute made here; for which I shall refer him to the Interpretation then made of the extent of the Statutes of *Gloster*, which had been enacted in the *6th.* of that King's Reign.

(*a*) *Stat. of Gloster 6. E. 1.*

Some would think (*a*) those Statutes to have been no more than *Ordinances*, made by the *King* and *his Counsel* only: and that our Kings thus made *Ordinances* of that kind, some may gather from *Fleta*, who speaks of the *King's Counsel*, in which, not only erroneous Judgments were corrected, but new Remedies provided; yet *Fleta* speaks this of the *King's Counsel in his Parliaments*: and thus, tho' the Statute of *Westm.* 2. (*c*) seems to restrain the making that of *Gloster* to the *King* and his *Council*, the Statute of *Gloster* it self shews that the *Counsel* was to be taken, as acting in conjunction with the

(*b*) Habet Rex consil. suum in Parl. suis.

(*c*) *Some Statutes made by the King, the Prelates, Earls, Barons, and his Council.*

Pre-

Prelates, *Earls*, and *Barons*, and that under the word *Barons* the Commonalty were included as as lower *Nobility*, or dignified by their Election to Parliament; accordingly the Statute of *Gloſter* ſays ſuitably to latter Writs of Summons, the (*a*) more diſcreet of the Kingd. as well *Great* as *Small* were Summon'd: So that the Statutes of *Gloſter* were made as other Statutes 3 *E.* 1. by that *King's Counſel*, and by *aſſent of the Commonalty*; where the *Lords* were manifeſtly included under the word (*b*) *Counſel*, agreeably to the ancient form of (*c*) Writs of *error*, or other Writs returnable into *Parliament*, *before us*, *and our Counſel in our Parliament*, *or*, *at our next Parliament* after, or at ſuch a time, *there to do what the King ſhall think fit to ordain*, *by advice of his Counſel*.

(*a*) 3. Inſt. & Rot. Stat. de temp. *E.* 1. *E.* 2. *E.* 3. Appellez les plus diſcretes de ſon regne, auſſibien des greindres come des meindres. (*b*) per ſon conſeil, & per aſſentement des tout la Commonalty. (*c*) Vid. Regist. Brev. ed. An. 1531. f. 17. Quod fiat coram nobis & conſilio noſtro in Parl. noſtro un. Rot. Clauſ. 17 *E.* 1. pars m. 8. Ad prox. Parl. poſt feſtum Paſchæ, ut tunc inde Rex faciat quod de conſilio ſuo duxerit ordinandum.

For evidence that this did not exclude the *Lords*, I may refer to

the Ro'ls of *Parliament* of several Reigns, and particularly to those of the *20th.* and *21st.* of E. 3. In the *20th.* the (*a*) Commons are desired to deliver such Petitions as were then ready, to the Clerk of the Parliament; which Petitions are said to be brought before the *Great Men of the Counsel.* That they were but of the nature of a *Committee* to inform the *King*, and *Lords*, of the *Bills* or *Petitions* which came from the *Commons*, appears by the Proceedings of the next Year; when the *Commons* having made *Petitions* of an extraordinary nature, the King answers, (*c*) "*He* "*will advise with the Lords.* To re- "turn to the Statute of *Gloster*, "there the *King* by such advice "as I have shewn, made Laws for "the amendment of *his Realm*, "*and for the plenary exhibition of* "*Right*, *as the profit of the Regal* "*Office requires*; and to remedy (*d*) mischiefs, damnages, and disherisons, suffer'd by the *People of the Realm of* England; without the least mention of *Ireland.*

(*a*) Rot. Parl. 20. *E.*3. m.11.

(*b*) Rot. Parl. 21, *E.*3 m.9. S'avisera ove les Grants.

(*c*) Rot. Stat. temps *E* 1. *E.*2. *E.* 3. Pur le amendment, de son Royaume & pour plenere exhibitionde droit, si come le profit de office regal demand.

(*d*) Vid. *the Stat. 3. Inst.*

And

And yet we have the judgment of the *Parliament* in the 13*th.* of that King, that *Ireland* was within the remedy of that *Statute*, as part of the *Realm of England*, as appears by this Preamble. (*a*) Where of "late our Lord the King in the "Quinziſme of St. *John Baptiſt*, the "Sixth of his Reign, calling toge- "ther the *Prelates*, *Earls*, *Barons*, "*and his Counſel*, at *Glouceſter*; "and conſidering that divers *of* "*this Realm* were diſherited by "reaſon that in many caſes where "remedy ſhould have been had, "*there was none provided by him* "*nor his* Predeceſſors; *ordained* cer- "tain Statutes, right neceſſary "and profitable *for his People*, "*whereby the People of* England, "*and* Ireland *under his Government*, "*have obtained more ſpeedy juſtice* "*in their oppreſſions than they had* "*before, and certain Caſes wherein* "*the Law failed* remain undeter- "mined, *and ſome remained to be* "*enacted*, that were for the reform "of the oppreſſions of *the People*; "Our Lord the King in *his* Parlia- *ment*

(*a*) Weſt. 2. 13. *E.* 1. *Anno* 1285. Printed Stat.

(*b*) Stat. ed. *An.* 1529. Quædam ſtatuta populo ſuo valde neceſſaria utilia edidit, per quæ populus ſuus Anglicus & Hybernicus ſuo regimine gubernatus.

" *ment*, after the Feast of *Easter*,
" holden the 13*th*. of His Reign,
" at *westminster*, caused many Op-
" pressions of the *People and*
" *defaults of the Laws*, *for the* (c)
" *supply of the defects of the said*
" *Statutes of* Gloster, *to be rehear-*
" *sed and made Statutes*, *as will ap-*
" *pear here following*.

(c) Ad suple-tionem dict. Stat.

Et Statuta edidit.

This rehearsal of the Grievances was, for certain, by the *Petition* of the *Commons* of this Realm, and the Statutes there made, as the *Register* of Writs has it, were by the *Common Counsel of the Kingdom*: And this *Counsel* not only declared Laws which were binding to *Ireland*, but made new; tho' Mr. *Molineux* will have it, that from the time of *Magna Charta* to the 10*th*. of *H*. 7. no *Laws were*, *or are* in force in *Ireland*, unless allowed of by Parliament in that Kingdom: except only *such as are Declaratory of the Common Law of* England, *and not Introductive of any new Law*. And whereas he is pleas'd to say,

Vid. Regist. Writs f. 13. Quando uxor admittitur ad jus suum defendend. & f. 16. De communi consilio Regni nostri.

" As

" As to ſuch *Engliſh* Statutes as P. 81.
" ſeem to comprehend *Ireland*,
" and to bind it *under the gene-*
" *ral words of all his Majeſty's Do-*
" *minions, or Subjects*, whatever
" has been the opinion of private
" and particular Lawyers in this
" Point, *I am ſure* (ſays he) *the*
" *Opinions of the Kings of* England,
" *and their Privy Council have*
" *been otherwiſe.* I may ſay upon much better grounds, if any *King and His Privy Council* did any thing to Warrant this Aſſertion, the Judgment of *E.* 1. and *His Council* in *Parliament*, was to the contrary, and is of *greater Authority.*

And 'tis to be remembred, as I before ſhewed, that the *Statutes* of *Gloſter*, which do not Name *Ireland*, and the Statutes of *weſt.* 2. which do, were both delivered to the *Clerk* of the Juſtice of *Ireland*, in order to their being publiſhed and obſerved there. And 'tis evident, that *Ireland*'s being bound by *Parliaments* in *England*, without any conſent expreſſed in *Ireland*, was not merely the Judgment

ment of the times above referred to, but the setled Judgment of that King and His *Council*, in His *Parliaments*.

(*a*) Priyn's Animad. on Lord Coke Pat. 8 *E.* 1. m. 13. Hib. Omnibus Anglicis terræ.

Thus in (*a*) the 8*th* of that King, there's a Writ taking notice, that the *Irish* had desired to be governed by the Laws of *England*: upon which the *King* requires all the *English of the Land of* Ireland to Certifie, whether this might be granted without prejudice to them; declaring that the *King* would make *such Provision, as should seem expedient to Himself, and His Council*: which, plainly enough referred to His *Council in Parliament*. If, upon their Certificate, a general Law had passed to grant the *Irish* their Request, the mentioning the *consent* of the *English* there, could not be thought to derogate from the *Legislature* here; the Authority of which was intimated in that very reference, and was fully asserted in that *King's* Reign by an Act of Parliament, made here after that time, and the

Quod nobis & consilio nostro videbitur expedire.

Proceedings

ceedings thereupon, both in *England* and *Ireland*.

By the Caſe (*a*) of mixt Monies in *Ireland*, we are informed, that 29 *E.* 1. when, by the King's *ſpecial Ordinance*, the *Pollards* and *Crochards* were cry'd down and made of no Value; the *ſame Ordinance was tranſmitted* into *Ireland*, *and Enrolled in the Exchequer* there, as is found in *the Red Book of the Exchequer* there.

(*a*) Davis Rep. f. 21. h. Iſſint 29 *E.* 1. quand per ſpecial ordinance del Roy, *&c.*

And agreeably to this, it appears by the Statute Roll here, that this *Ordinance*, which in truth was an Act of Parliament, or elſe an other of the ſame kind, was ſent to *John Wogan*, then *Chief Juſtice* of *Ireland*, or to his Lieutenant.

Rot. Stat. de temp. *E.* 1. *E.* 2. *E.* 3. Johan Wogan, Juſtice Dirland, ou a ſon Lieutenant.

This is only a ſhort Entry referring to the known uſage; But the very next Record of a tranſmiſſion to *Ireland* of a Statute made here, which was that about *Juries*, is more expreſs.

Printed Stat. 21 *E.* 1. c. 1. Record 22 *E.* 1.

Mem.

Mem. quod istud Statutum de verbo ad verbum missum fuit in Hib. T. R. aput Kenynt. 14. die Aug. Rni sui 27. Et mandatum fuit J. Wogan Justic. Hib. quod præd. Stat. per totam Hib. in locis quibus expedire videret legi & publicè proclamari, & firmiter teneri faciat.

Mem. That that Statute, word for word, was sent into Ireland, *Teste the King at Kenynton* 14. *Aug. in the* 27th. *of his Reign. Command was gi-to* John Wogan, Chief Justice of *Ireland, to cause it to be read in those places in which he shall think it expedient, and to be publickly* Proclaimed *and* Observed.

Note 2 Stat. *made in the* 21 *or* 22 *was not sent to* Ireland *till the* 27th.

This Statute does not name *Ireland*, nor has general words which seem to include it: But it seems some years after to have been Enacted, that this Statute should be transcribed, and sent to *Ireland* for a Law given them by Parliamentary Authority.

In the *35th.* of (*a*) *E.* 1. *Will.* De *Testa* was Impeach'd in *Parliament*, for grievous Oppressions and Extortions upon the People, by Colour of Authority from the *See of Rome:*

(*a*) Ryley's Placita Parl. f. 379. 381, 382.

Rome: This, upon the Petition of the *Earls*, *Barons*, and other *Great Men*, and the *Commonality of the whole Realm of* England, occaſioned (*a*) general Law and Proviſion, for the State of the King's *Crown*, and alſo of His *Lands* of *Scotland*, *Wales*, and *Ireland*.

(*a*) Pro Statu Coronæ Regiæ nec non terrarum ipſius Regis Scotiæ Walliæ & Hiberniæ.

The Remedy was Enacted by the *b Aſſent* of the *King*, and the whole *Council of Parliament*; and 'twas Enacted, that for the future ſuch things ſhould not be permitted within (*c*) the *Realm*.

b Ex aſſenſu Dom. Regis ac toto conſilio Parliamenti.

(*c*) Non permitterentur in Regno.

That *Ireland* was then included as part of the *Realm*, appears not only by the intention before declared, but agreeably thereunto, The Statute then made is, by Authority of *Parliament*, ſent to the *Juſtice of* Ireland, as well as to the Chief Governors of other the King's Dominions; enjoyning them to enquire and proceed againſt thoſe who had offended in that kind, and to cauſe the *Proviſion*, *Agreement*, and *Judgment*, of that Parliament, to be *Firmly and Inviolably obſerved in thoſe Lands*.

Et mandatum eſt Principi Wallia & Com. Ceſt. & Cuſtodi Scotiæ & Juſtic. Hib.

In eiſdem terris firmiter & inviolabiliter obſervari.

Mr. *M.*

Ordinatio pro Statu Hib. *falsly supposed to have been* 17 E. 1.

Mr. *M.* having, as he thinks, answer'd an Objection from the *Ordinance for the State of* Ireland, Printed in our Statute-Books, not only that of 1670. but even in others much more Ancient, as made 17 *E.* 1. I shall shew him some new Matter, which may deserve his farther Consideration; and yet tho' he thinks he has prov'd, 1. That this *Ordinance* was never receiv'd in *Ireland*, 2. That 'twas *meerly an Ordinance* of the King, and *His Privy Council* in *England*; it might be enough to observe, That the Clause which he Instances in, forbidding the *King*'s Officers to purchase Lands there, upon pain of Forfeiture, has an *Exception for the King's Licence*; and tho' he has not been at the pains to examine whether there were any such Licences from *England*, I can shew him in the very next Year, a confirmation under the Great Seal of *England*, of a grant of *Land*'s there, before made from hence: which were sufficient security against the forfeiture.

P. 88.

Stat. ed An. 1529.

P. 88.

P. 89.

Vid. Rot. Claus. 18. *E.* 1. m. 8.

ture. 2. If 'twere admitted that the Ordinance were made by the *King* and his *Privy Counſel*, 'twould be very difficult for him to prevail upon many to believe, that a *Land* or *Kingdom*, which in all the principal Parts of Government was under the controul of the Great Seal of another Kingdom, was (as he pretends) (*a*) *a complete Kingdom within it ſelf*, (*b*) or *a Kingdom regulated within it ſelf*; the contrary of which appears in numerous inſtances of the time of which we are at preſent enquiring; as of leave from hence to chuſe Eccleſiaſtical Governors, Pardons, Directions, for the Proceedings of the *Courts* of *Juſtice*, and *Council* in *Ireland*; the appointing *diſtinct Courts* of *Judicature*, Grants of Lands, Offices, Liveries out of the King's Hands of Lands held in Chief of the Crown of *England*, Licences of alienation, and the like.

Theſ. & Bar. ſuis de ſiccio Dublin. Pro Othone de Grandiſon.

(*a*) P. 148.

(*b*) P. 155.

Further than all this, there's a Precedent of taxing *Communities* by Authority from hence. It muſt

be agreed, that 'twas frequent for *Kings* to grant to *Cities* and *Towns* in *England*, power to raiſe *Cuſtoms*, or *Duties* for *Murage*, the building or repairing their Walls, to be levyed upon Goods and Merchandizes brought thither; in theſe Grants there was no mention by what *advice*, or *conſent* they iſſued; but 'tis to be preſumed that the *Great Seal* was not raſhly affixed; nor were they extended farther than to the Walls, which ſecured the Perſons and Goods of thoſe who paid the Duty: yet the *Great Seal of England* has been applyed much more abſolutely, to the binding the property of the Subjects in *Ireland*, as may appear by this Record..

Pat. 18. *E.* 1. m. 13. De muragio *Dublin.*

R. Ballivis & probis hominibus ſuis Dublin Salutem Cum in ſubſidium villæ claudendæ vobis nuper per literas noſtras Pat. conceſſerimus quod quaſdam conſuetudines uſque ad certum tempus de ſin-

The King to the Bayliffs and honeſt Men of Dublin *Greeting; ſince, in aid of walling your Town, we lately by our Letters Patents granted, that you ſhould take ſome Cuſtoms to a certain day, of every thing*

to

gulis rebus venalibus ad eandem villam venientibus capietis, ac dilectus & Fidelis noſter Nic. de Clere Theſ. noſt. Hibern. teſtificatus fuerit coram nobis, quod vos ad mandatum ejuſd. Nic. magnam partem pecuniæ provende conſuetud. antedict. in clauſuram ſcaccar. noſtri Dublin poſuiſtis nos ea de cauſa, *&c.*

to be ſold coming to that Town. And our beloved and faithful Subject Nic. de Clere *Treaſurer of* Ireland *has certified us, that you,* at the command of the ſaid *Nicholas, have employed great part of the Money ariſing by thoſe Cuſtoms, to the encloſing or repairing the Exchequer at* Dublin. *Therefore,* &c.

The King by his Great Seal of *England* continues the Tax for Three Years longer than his firſt Grant, and allows of the applying part of it to an end very different from that of the *walling the Town.*

For a yet farther Evidence of the more abſolute Dominion, which *E.* 1. exercis'd over *Ireland*, than he pretended to in *England*; I ſhall ſhew, that he took to himſelf Authority to ſet aſide what is ſuppoſed to have been ſetled by

an *Ordinance*, in the ſeventeenth of his Reign.

Ordin. pro Statu Hib. c. 2.

One of the ſaid Ordinances provides, That neither *the Juſtice of* Ireland, nor any other of the King's Officers, by colour of their Office, take Victuals from any Perſon without his Conſent, *unleſs in caſe of neceſſity*, and that by *the aſſent of the chief of the King's Council of thoſe* Parts, and by Writ, out of the *Chancery of* Ireland.

Pat. 18 E. 1. M. 2.

And yet in the next Year after this *Ordinance* is ſuppoſed to have been made, the *King*, as a particular Indulgence to the *Citizens* of *Roſcommon*, grants that the *Conſtable of Roſcommon*, or other the King's Officers, ſhall take no *Victuals*, or other things of them without their Conſent, *unleſs there be a neceſſity for it in time of War.* And this exemption is only by a Patent during *Pleaſure.*

Niſi tempore guerræ neceſſitas hoc depoſcit.

Has literas noſtras fieri fecimus patentes quamdiu nobis placuerit duratur'

But, in truth, this was no violation of the *Ordinance* for the State of *Ireland*: For, beſides that, I ſhall ſhew when 'twas made, and how, in another Reign; 'Tis certain it could

could not be in a *Council* at *Nottingham* in the *Octaves* of St. *Martin*; not only as may appear to any one who will trace the Close and Patent-Rolls, and the Use of the Great Seal, which went along with the King from his Landing at *Dover* (*a*) on the 12th of *August*, to the (*b*) 16th of *November*; during which time the Seals were far from *Nottingham*, but chiefly because there was a *Parliament* at *Westminster*, appointed to be held on the *Crastino Martini*; which, 'tis to be presumed, met accordingly, tho Mr. *M.* is positive that *E.* 1. *held no Parliament in the* 17*th of his Reign.*

(*a*) Claus. 17. E. 1. M. 4. Intus. Nota Oct. Martini, *is but* 2 *Days after.*

(*b*) P. 89.

(*c*) Claus. 17. E. 1. M. 8. Usque ad proximum Parl. post Pascha ut tunc inde Rex faciat quod de concilio suo duxerit ordinandum. Teste Edm. Com. Corn. Cust. Regis apud. West. 5 Martii

But, for his Conviction in this particular, during *d* the K's Absence in Foreign Parts, *Edmund* Earl of *Cornwall*, being *Custos*, Dated the Writs, among which there was one referring a Matter to the Judgment of the King and his Council, in the *next Parliament to be after* Easter.

And to satisfie Mr. *M.* that there was no need of a *Council at Notting-*

ham, nor could there be one the *Octaves* of St. *Martin*, it happens that on (*a*) the 14th of that *October*, a Writ issued to the *Sheriff* of *Nottingham*, acquainting him of a Commission to certain Persons to hear the Miscarriages of the King's Officers in that Country, and to give me an account thereof at the *next Parliament*; and therefore commands the *Sheriff* to Summon all Parties aggrieved, to be at *Westminster* that year in the Morrow of *Sanct* (*b*) *Martin*.

(*a*) Clauf. 17. E. 1. M. 2. dorso Nobis ea in proxim. Parl. nostro referant

(*b*) Quod veniant apud Westm. in Craft. instantis Festi Sancti Martini.

That 'tis to be believed a Parliament was holden 17 E. 1. *tho no Summons to it found.*

I must own that I have not found any Record of a *Writ of Summons* for any of the Members to come to Parliament that Year, nor has Sir *William* (*a*) *Dugdale* found any to the *Lords*, till the 22d; and yet 'twill be agreed, that there were Parliaments between the 49th of *H.* 3 and the 22d of *E.* 1. and 'tis certain the Statute of *Westm.* 1. (*b*) 3 *E.* 1. is express, that the *Archbishops*, *Bishops*, *Abbots*, *Priors*, *Earls*, *Barons*, and *all the Commonalty of the Land*, were Summoned to that *General Parliament*,

(*a*) Vid. Dugdale's *Summons to the Nobility. That which he cites* 5 *E.* 1. *is a Summons to the Army.*

(*b*) Vid. Stat. ed. An. 1529. p. 21.

ment, and *aſſenting to the Laws then made.*

Mr. *Prynn*, as I take it, had not ſeen any Writ of *Summons* to the *Commons*, till 26 *E.* 1. Yet I have found in the Cloſe-Roll of (*a*) 18 *E.* 1. as Dr. *Brady*, and Mr. *Petyt* have in the Bundle of *Writs*, this following.

Of A Summons to Parliament 18 *E.* 1.

(*a*) Rot. Clauſ. 18. *E* 1. M. 10. dorſo.

Rex Vic. Northumb. cum per Com. Bar. & quoſdam alios de proceribus regni noſtri, nuper fuiſſemus requiſiti ſuper quibuſdam tam cum ipſis quam cum aliis de comitatibus regni illius, colloquium habere velimus & tractatum; Tibi præcipimus, quod duos vel tres de diſcretioribus & ad laborandum potentioribus militibus, de Com. præd. eligi & eos ad nos uſq; Weſtm. venire facias; ſine

The King to the Sheriff of Northumberland. *Foraſmuch as we were lately in a ſpecial manner entreated by the* Earls, Barons, *and ſome others of the* Peers, *or* Nobility *of our* Realm, *that we would have a* Colloquy *and* Treaty *upon ſome Matters*, as well with them, as with others *of the* Counties *of the* Realm. *We require you without delay, to cauſe to be Elected, and to come to us as far as* Weſtminſter, two *or* three *of the*

That cited by Dr. Brady *is to the Sheriff of* Weſtmorland.

dilatione. Ita quòd ſint ibid. à die Sancti ibidem a die Sancti Johannis Baptiſtæ prox. fatur in tres ſeptimanas ad ultimum, cum plenâ poteſtate pro ſe & totâ Communitate comitat. præd. ad conſulendum & conſentiendum pro ſe & communitat. illâ, hiis quæ Com. Bar. & Proceres præd tum duxerint concordand. T. R. apud Weſt. 14 die Junii.

more diſcreet, and more able to travail of the Knights *of the ſaid* County: *So that they be there* at the lateſt, *within* three Weeks, *from the Day of St.* John the Baptiſt *next enſuing*, *with* full power *for* themſelves, *and* all the Commonalty of the ſaid County, to conſult and conſent *to thoſe things, which the aforeſaid* Earls *and* Barons *ſhall then think fit to be* agreed. *Teſt. the King at* Weſtm. *the* 14*th day of* June.

Dr. *Bradie's* Anſw. *p* 230. Dr. Bradie's *Introduction to his Compleat Hiſtory.*

This Dr. *Brady*, in his Anſwer to Mr. *Petyt*, more truly than he is aware, calls a *Summons* to a *Parliament*: However in his Introduction he will have it, that the Laws were then made by *the King* and his *Peers*, before the *Knights* of the *Shires* came; the Statute of that time ſaying, that the *Parliament* was

was holden in the *Quinzism* of St. *John*, and that the Laws were made at the (*a*) *Instance* of the *Great Men.*

(*a*) Ad instantiam Magnatum.

But he might have obſerved,

1. That the Proviſion (*b*) then made, is called a *Statute.*

(*b*) *Et ſciendum eſt quod iſtud ſtatutum tenet locum de terris venditis tenend. in feodo ſimplici tantum. Quia emptores terrar.* &c. *There us'd to be Manucaptors for this purpoſe.*

2. That the *Council* wherein it paſs'd, is called a *Parliament.*

3. That the Matter enacted, was a *general Law*, and of *general Concern*; it being for the encouraging of Purchaſers, and engaging the more Perſons to a National Intereſt by Propriety in Land, which till that time was in much fewer Hands; becauſe whoever purchaſed any part of an Eſtate, had been liable to be charged with all the Rents and Services which lay upon the whole; and there was one other neceſſary Proviſion, againſt Alienations in *Mortmain.*

4. The Precept to the *Sheriff* was to cauſe the Election to be made *forthwith*, and to take care that the Parties were *found* to be at *Weſtminſter* by three Weeks after the Feaſt of St. *John*, *at the farthest.*

theſt. The Day when the *Parliament* was holden, was but 5 or 6 Days before; which ſhews, that 'tis abſurd to imagine, that there ſhould have been a Law made of that immediate conſequence to all Owners of Land, before the *Knights* of the *Shire* came up; not only becauſe they being obliged to be at *Parliament* by ſuch a Day *at the lateſt*, may well be ſuppoſed to have come 5 or 6 Days before the utmoſt extent of their time, to avoid the Forfeitures of the Bonds which they us'd to give for their Appearance; but chiefly, becauſe, as 'tis well known, whenever a Law paſſes, 'tis in Judgment of Law held to have paſs'd the firſt Day of the *Seſſion*; which Day might have been agreed at their former Meeting. Nor is it abſurd to believe, that there might be a *Summons* to require the *Sheriffs* to ſecure *Full Parliaments*, even tho the Days of Meeting and of Elections below, might have been certain.

The true reaſon why ſo few Writs of Summons, of thoſe early times, are to be found, ſeems to be, that once, at leaſt, in a Year the *Parliaments* met of courſe.

Why ſo few Writs of Summons in thoſe Times now to be found.

The *Confeſſor's* Law ſpeaks of the (*a*) *Calends of May* as the fix'd Day. In the (*b*) 1ſt of *E* 1. the *Cuſtos* of the *Realm*, as appears above, in the King's Abſence iſſued Writs, tho not for Elections to *Parliament*, yet returnable into the *Parliament*, to be holden next *after Eaſter*, without mentioning any Day, as if 'twere commonly known; but no Parliament being holden ſoon after *Eaſter*, becauſe of the King's being out of the Land, a Return into a *Parliament* appointed to ſit after the King's Landing, was to a Day certain. But that at the beginning of *E.* 1. the time of holding a *Parliament* was look'd upon as ſo fix'd, that there was no need of *Summons*, appears by that *King's* Letter to the *Pope*, 3 *E.* 1. referring him to the Deliberation of the *Peers* of the Kingdom in a *Parliament*,

(*a*) Vid. *Lamb's* Archaionom Leges St. *Edw.*

(*b*) Rot. Clauſ. 17. *E.* 1. ſup.

Rot. Claus 3. *E.* 1. *M.* 9. dorſo in Parl. Quod circa octabas Reſurrectionis Domini celebrari in Angliâ conſuevit.

ment, which uſed to be holden in England, *about the Octaves of the Reſurrection of our Lord.*

5. If the mention only of the *Inſtance* of the *Great Men*, or *Nobility*, be an Argument that the Law was then made before even the *Knights* of the Counties came up, tho Summoned to *Conſult* and *Conſent*; the many Laws which have paſs'd immediately upon the *King*'s Anſwer to the *Petition* of the *Commons*, would argue as ſtrongly, that thoſe Laws were made without the conſent of *the Lords*; but as in ſuch caſe, either they were included as part of the *Community* of the *Kingdom*, or elſe the *King* anſwered *by their Advice*; So at the making the *Statute* 18 *E.* 1. either the *Commons* were under the Word *Magnates*, as the *lower Nobility*, or Men dignified by being Senators, or elſe the *Great Lords* finding themſelves chiefly agrieved, as being unable to pay their Debts, becauſe none would buy their Lands; this Law might have paſs'd chiefly at their deſire: But then, ſince 'tis mani-

manifeſt it was in *Parliament*, 'twas by the Conſent of the *Commons*; but I rather think that the *Commons* were then included under *Magnates*, bec. ſe I find them ſo in Times after th..s; and that Petitions were made to them with as *high Aſcriptions* as were given to the *Great Lords*.

Commons included under Magnates.

In the 1ſt of *E.* 3. a Statute was made, as one Record has it, by the (*a*) *Common-Council* of the *Kingdom*, as another (*b*) by the *King*, the *Prelates*, *Earls*, *Barons*, *and the Commonalty of the Realm*; and yet an Hiſtorian well converſant in the Records, and common acceptation of Words in that Time, ſpeaking of this very *Parliament*, and of the Queen Mother's coming to *London*, with *E.* 3. her Son, ſays, *Thither alſo Convened the* whole (*c*) Nobility *of the* Kingdom, *having been before Summoned to the* holding a Parliament.

(*a*) Rot. Pat. 1 E. 3. *M.* 10.
(*b*) Rot. Claus. 2 E. 3. *M.* 20.
Walſingham, *F.* 126.
(*c*) Tota regni nobilitas citata per prius ad Parl. ſemend.

In after Times there are numbers of Petitions to the *Houſe of Commons*, from Perſons of Quality; from the City of *London*, and others:

thers: *To the* (*a*) Most Honourable, *or* Right Honourable, *and* Most Wise *the* Commons in this present Parliament Assembled.

The (*b*) *Honourable* and *Most wise*, and the like.

(*c*) But some who will admit that the *Knights* of the Shire, who indeed are in many Records call'd *Grands* of the *Counties*, were part of the *Magnates* 17 *E.* 3. will have it, that the *Citizens* and *Burgesses* were not, because. 1. They, in those Times, used to be distinguished by the Name of *Commons*, from the Knights of the *Shires*. 2. There's no mention of any *Summons* to them in the Records of 18 *E.* 1. when there was to the *Knights* of the *Shires*. But for a full answer to this, I desire it may be considered.

1. That the Meeting 17 *E.* 1. appears by the Statute then made, to be a *Parliament*, that Dr. *Brady* himself has yielded, that the *Cities*, *Boroughs*, and *Cinque Ports*, and *Vills*, had by King *John*'s *Charter*, right to be of the *Common-Council*

(*a*) Rot. Claus. 4. H. 4. n. 19. Pur Monsieur Thomas Pomercy Chivalier. Tres honourables & Tressages Communes.

(*b*) Rot. Parl. 8. H. 6. n. 51. Tressages & Tres honourables.

From the Mayor, Aldermen and Commons of the City of London. Rot. Patl. 3. H. 5. pars 1. n. 7. Vid. *Sup. of Cities and Boroughs.*

Vide sup.

(*c*)

Council of the Kingdom; which is the Phraſe moſt generally uſed in the Ancient *Regiſter of Writs*, to denote a *Parliament*.

2. There were *Boroughs* long before the reputed *Conqueſt*: As for inſtance, St. *Edmund*'s *Bury*, or *Burgh*, made a Borough in the Time of King *Edmund*, confirmed in the Reigns of *Cnute*, the *Confeſſor*, *W.* 1. and other Kings.

3. *Boroughs* frequently occur in *Dooms-day Book*, that great Survey taken in the Reign of *W.* 1. and are mentioned as ſuch in the Time of *Edward the Confeſſor*.

4. No one *Charter* of ancient Times ſince *W.* 1. can be found, giving any *Borough* right to ſend Members to *Parliament*; but that has ſeem'd the conſequent of being a *Borough*, having a *Gild* for Merchandize, and anſwering to the King, or other chief Lord, as one entire Body: upon which account they appeared by Repreſentation, while individual *Tenants* were in the great *Councils* upon their Perſonal Right.

5. That

5. That for aſſerting the Right of *Boroughs* to be repreſented in Parliament, it generally was enough to plead that they were *Boroughs*; yet one inſtance at leaſt is to be found within two Reigns after the time of our preſent enquiry, where a (*a*) *Borough* Pleads, or Alledges in *Parliament*, that they had been made a *Borough* in King *Athelſtan*'s time, and ever after had been repreſented in *Parliament* by two Members of their own chuſing: and this the then *Parliament*, or the *King's Council* in it, were ſo far from thinking improbable, that upon that Borough's Allegation that the Charter was loſt, they direct an enquiry, with declared diſpoſition to have it renewed.

(*a*) Rot. Pat. 17. E. 3. p. 1. m. 20. dorſo.

6. Theſe *Boroughs*, whether holding of the *Crown* in chief, or of *Great Lords*, were either *Baronies*, or parts of *Baronies*, upon the account of *Knights Service*; or *Honors* by

by reaſon of other free Tenures, and their Charters, that they ſhould hold *freely* and *honourably*, as many of them run; and thus the Members in *Parliament*, who ſerv'd for theſe *Baronies*, or *Honours*, were part of the *Baronage* of the Kingdom: Not but that ſometimes *Barony* and *Honour* are uſed without diſtinction concerning them; and thus that ancient Borough of *Barnſtaple* (*a*) which held of the Lord *Tracy*, is in the ſame Record call'd both a *Barony*, and an *Honour*. Which Honour, as appears by this inſtance, was not limited to immediate Tenure of the Crown; and that this was not derived from the grant of a reputed *Conqueror* might be proved by numbers of Authorities, of which I ſhall here content my ſelf with one out (*a*) of *Doomeſday-Book*.

Liberè & honorificè.

(*a*) Pat. 15. Jo. par. 1. M. 11 Rex ſcidimus Hen. de Tracy Baroniam de Bardeſtaple. Ib. Dotum honorem de Bardeſtaple.

(*a*) Vid. *Doomday* de Norwic.

In Norwic erant temp. E. MCCCXX Burgenſes, *&c.* Tota hæc villa redde-

In Norwich *there were in the time of* Edward 1320. *Burgeſſes. All this*

bat TRE 20 *l.* Regi & Comiti 10 *l.* In novo Burgo (*a*) XXXVI Burgenſes and VI Anglici. De hoc toto habebat Rex 2 partes & Comes tertiam; modo XLI Burgenſes Franci in dominio Regis, & Comes Rogerus Bigot habet L. & ſic de aliis. Tota hæc terra Burgenſium erat in Dominio Comitis Rad. & conceſſit eam Regi in commune, ad faciendum Burgum inter ſe & Regem: Ut teſtatur Vicecomes.

(*a*) Nota, *What a ſmall proportion this new Plantation of French bore to the 1320 Burgeſſes, and yet ſome Engliſh were mix'd even among the French. Beſides the French ſeem to have had but 11 added to their number from the Conſeſſors time to the 20th. of* W. 1.

Town in the time of King Edward *yielded the King* 20 l. *and the Earl* 10 l. *In the new Borough there were* 36 *Burgeſſes, and ſix of them Engliſh. Of all this the* King *had two parts, and the* Earl *the third. Now there are* 41 *Burgeſſes in the Kings demeaſn, and Earl Roger* Bigot *has* 50. *and ſo of others. All this Land of the Burgeſſes was in* Earl (*c*) Ralphs Demeaſn, *and he granted it to the King in common, to make a* Borough *between him and the King: As the Sheriff atteſts.*

This Earl was *Ralph Guader* or *Wader*, who continued Earl of *Norfolc*, or at leaſt of *Norwich*, from

from within the *Confeſſor*'s Reign, till the *9th.* or *10th.* of *W.* 1.

7. The Freemen, or at leaſt they who had Borough-holds in theſe, or in ſome of them, are in *Doomſday-Book*, called *Barons*, as particularly in the *Borough* of *Warwick.*

Et in Burgo de Warwic habet Rex in Dominio ſuo CXIII Domus, & Barones Regis habent CXII. de quibus omnibus Rex habet geldam.

And in the Borough of Warwick *the King has in his demeaſne* 113 *Houſes, and the Kings Barons have* 112. *of all which the King has Aid.*

8. They who were intereſted in the Government of theſe *Boroughs*, and had Right to look after their common concerns, could not but be *Barons* as properly, as the Free hold Tenants of *Lords* of *Mannors*, *Freeholders*, who were Judges in the County Courts, and the *Freemen* of *London*, who are call'd Barons in ſeveral Records, and

other undoubted Authorities; and the *Barons* of the Cinque Ports.

(a) *Domſday-Book* TRE reddebat, &c.

Of *Dover* in particular (a) *Domſday Book* ſays, in the time of *King Edward* it yielded 18 *l.* of which *King Edward* had two parts, and *Earl Godwin* the 3. And a *Charter*(c) to this *Port* in the beginning of *King John's* Reign confirms to his Men of *Doura* the *Confeſſor's* Charter, together with the Charters of *W.* 1. and other Kings after the reputed Conqueſt.

(b) Rot. Cart. 2. Jo. m. 17. n. 51.

9. If 'tis to be thought, that no *Citizens* and *Burgeſſes* were at the Parliament 17 *E.* 1. becauſe no Summons appears for other *Commons*, beſides the Knights of the *Shires*; by the ſame reaſon 'tis to be thought, that none of the *Great Lords* were there; no *Summons* to them appearing.

10. In

10. In the Writs for chuſing Knights of the Shires there was no occaſion to mention the choice of others; and thus 12 *E.* 2. Only the *Earls*, *Barons*, and *Commonalty* of the Counties are ſpoken of as granting an 18*th.* part of their Goods: but they would be very much deceiv'd who ſhould think, that no others were at that Parliament; for the ſame Record ſhews, that the *Clergy* granted a 10*th.* and the *Cities* and *Boroughs* a 12*th.* Rot. Pat. 12. *E.* 2. m. 5.

11. 'Tis very probable that at that time, the *Cities* and *Boroughs* had the Writs directed to them in particular, to be return'd by their *Headborough*, or other Officer, or elſe by the Community there.

Thus in the 14*th.* of King *John* a Summons to the Army is ſent to the *Headborough* and *Honeſt Men* of *Canterbury*; ſo to *Dover*, *Rocheſter*, *Gildford*, and a great many other Places. Rot. Claus. 14. Jo. m. 8. d.

Rot. Pat. 15. Jo. m. 3. n. 8. And the very next Year particular Writs are ſent to the *Honeſt Men* of *Canterbury*, the *Mayor* and *Barons* of *London*, the *Mayor* and *Honeſt Men* of *Wincheſter*, &c. and ſo to all the *Boroughs* and Demeſns of the Crown; not only referring them to the *Juſtice* or *Cuſtos* of the Realm, but deſiring an Aid of them which: Mr. *M.* muſt agree to have been deſired in as true a *Parliamentary Meeting*, as thoſe which he cites of the time of *H.* 3. in relation to *Ireland*.

This I hope may not be thought an unprofitable digreſſion from the ſuppoſed *Ordinance* 17 *E.* 1. but may ſufficiently evince, by what Authority it muſt have been made, if there were any ſuch of that time; and that the King and his *Counſel* pretended not to ſettle the State of a Dominion annex'd to the Crown of *England*, without conſent of the *States*.

But

But tho' the *King's Counſel* did not then act in *Parliament matters*, otherwiſe than *Parliamentarily*; yet 'tis certain that they did exerciſe an *Ordinary Juriſdiction* in relation to *Ireland*, as well as to *England*, either as *Committees* or Tryers of Petitions, appointed by the Lords or otherwiſe; tho' the bringing a Cauſe from the Lords in *Ireland to the Houſe of Lords* here, is one of the circumſtances in *the preſent juncture of Affairs, which ſeems to require Mr.* M's *learned Diſquiſition.*

In the Bundle of Petitions to the Parliament, in the time of *E.* 1. there are ſome (*a*) endorſed as bronght before the *King*, ſome before *all the Council*; and as the Method of following times explains this Matter, there had been appointed Receivers and Tryers of Petitions concerning *Ireland*; for ſeveral are receiv'd from thence, and authoritatively Anſwered.

Bundela Pet. Parl. de temp. *E.* 1.

(*a*) Coram toto conſilio.

There's one from *Jeffery de Geymul*, who complains of the *Barons* of the *Exchequer* in *Ireland*, for ſending within his Juriſdiction, a Commiſſion of enquiry, who Sold *Pollards*; to the prejudice, as he alledged, of the *Franchiſe*, which (*a*) *H.* 2. had granted to the Anceſtors of his Wife, *Maud de Lacy.*

(*a*) Vid. Davis Rep.le Caſe del County Pal. f. 64. Cart. *H.* 2. Hugoni de Lacy Com. pro ſerv. ſuo & terram in Midea cum omnibus pertin' per ſerv. 50. militum ſibi & hær. ſuis tenend. de me & hær. meis.

This Commiſſion was manifeſtly founded upon the Record of the Statute made here, as is ſhewn above, enrolled in the *Exchequer* of *Ireland* by Order from hence: This the *Barons* there obey'd, and held that by Virtue of that, they might cauſe Commiſſions of Enquiry to be executed even in *Palatinates:* nor does it appear, that the *King's Council* in *Parliament* diſallowed of their Proceedings; for nothing was done upon this *Petition*, any more than referring it to the next *Parliament.*

In

In the Caſe of one *Allen Fitzwaren*, they Ordered a Writ from the *Chancellor of England*, to require the *Juſtice of Ireland* to examine, whether a Judgment about Title of Land had been given while a Man was abſent, and under the *King's Protection*; requiring, that *if any thing was done contrary to Protection, it ſhould be amended in due manner.*

And as the *Lords* in *Parliament* then exercis'd a Juriſdiction over *Ireland*; it appears that out of it the *High Admiral of England* had Conuſance, of all *maritime Cauſes*, as well throughout *Ireland*, as *England*, from the time then beyond the memory of Man, which muſt relate to the general Preſcription, which is at this day as far ſince as the beginning of *R.* 1. Son to *H.* 2.

Rot. de ſuperioritate Maris 26. *E.* 1. Les Roys du dit Royaume du temps dount il n'a memore du contraire euſſent eſte en paiſible poſſ. de la Soveraign Seignorie, de la meer Dengleterre, & des Iſſles avec la conuiſance & juſtice & touts autres appertenants, *&c.*

eſteants en y cel & q. l'Admiral ad juriſd.

That

That during the Reign of *E.* 1. *Irel.* was govern'd as a part of *England*, or appurtenant to it; and that the Laws made here wanted no other Publication, than what was in obedience to the Great Seal of *England*, affixed to Writs and Charters, or Exemplifications of our Acts of Parliament, by Authority from hence, I think may be beyond diſpute: which might excuſe my not dwelling upon the unfortunate Reign of *E.* 2. and yet there are ſome evidences not to be neglected of *England*'s being then poſſeſs'd of its ancient Authority over *Ireland*: and that, tho' at leaſt from the 3*d.* of that King's Reign Mr. *M.* ſuppoſes, that they had *a regular Legiſlature* in *Ireland.*

Of Ireland's being bound by the Parliaments of England *in the time of E.* 2.

In the 10*th.* of that King, the *Engliſh* in *Ireland* petitioned him for a Conſtitution, that a *Parliament* ſhould be holden there once a Year: Upon this and other things then deſired, the King, under the Great Seal

Prynn's *Animad. on Lord Coke f.* 262. 10. *E.* 2. Quod ſemel in Anno teneatur Parl.

Seal of *England*, commands the *Juſtice* of *Ireland* to Summon a *Parliament* there, to conſider what was fit to be done, and to certifie the reſult into *England*: upon which the *King* declared that he would, by the *advice of* his *Counſel*, ordain what ſhould be fitting: but nothing more appears of that matter, which was the fartheſt ſtep towards ſettling an *Annual Parliament* in *Ireland*.

In the 12*th*. of that *King* an Act of *Parliament* was made in *England*, with this Preamble, "Foraſmuch "as divers People of the Realm "of *England*, and of the Land "of *Ireland*, have heretofore ma- "ny times ſuffered great Miſchiefs, "Damage, and Diſheriſons, by "reaſon that in ſome Caſes *where* "*the Law failed*, *no Remedy was* "*ordained*; and alſo foraſmuch as "ſome points of the Statutes here- "tofore made, had need of Ex- "poſition; *our Lord King* Edward, "*Son to King* Edward, deſiring "that full Right may be done to "*his* *Stat. of* York 12 E. 2.

" *his People; at his Parliament* holden at *York*, the third Week after the Feast of St. *Michael*, the 12th Year of his Reign by the *Assent* of the *Prelates, Earls, Barons*, and the *Commonalty of his Realm* there assembled, hath made these *Acts* and *Statutes* following; the which he willeth to be observ'd in his said *Realm*, and *Land*.

Though *Ireland* is in some sense part of the *Realm* of *England*, yet here 'tis distinguished as a *Land* intended to be bound, tho it had no *Commonalty* of its own to represent it in *Parliament*: and there is *new Remedy provided where the Law had failed*, as well as the explaining what was Law before: that part at least which creates a Forfeiture of *Wine* and *Victuals* sold by any Officer appointed to look after the Assises of them, was absolutely new.

Cap. 6.

This

This Statute was tranſmitted to *Ireland*, by the following Writ, under the *Great Seal* of *England*, and the Name of the Party who received it, is enter'd upon Record.

Rot. Sat. de temp. E. 1. E. 2. E. 3. Statuta miſſa fuerunt in Hib. ut in brevi ſubſeq. continetur, & liberata fuerunt Godf. filio Rog. una cum dict. brev. deferend.

Rex Cancel. ſuo Hibern' Salutem. Quædam ſtatuta per nos in Parl. noſtro nuper apud Ebor' convocato, de aſſenſu Prel. Com. Bar. & totius Communitatis, regni noſtri ibid' exiſtentis; ad Commun. util. regni noſtri ac terræ Hibern' edita, vobis ſub ſigillo noſtro mittimus conſignata. Mandantes quod Stat. illa in dicta Cancellariâ cuſtodiri, ac in rotulis ejuſd. Cancel. irrotulari, & ſub ſigillo noſtro quo utimur in Hi-

The King to his Chancell. of Ireland, *Greeting, We ſend you under our* Great Seal, *certain* Statutes *made* by us *in* our Parliament lately called together at *York, with the* Aſſent *of the* Prelates, Earls, Barons, *and* all the Commons of our Kingdom there aſſembled; *for the Common Utility of* our Kingdom, *and* Land *of* Ireland: *Commanding you, that thoſe* Statutes be kept in the Rolls of the ſaid Chancery, to be enroll'd and

berniâ in forma patenti exemplificari, & ad ſingulas placeas noſtras in ter. præd. & ſingulos comitat. ejuſd. ter. mitti facias, & brevia noſtra ſub dicto ſigillo miniſt. noſtris placearum illar. & Vicecom. dict. Com. quod ſtatuta illa coram ipſis publicari & ea in omnibus & ſingulis ſuis artic. quantum ad eor. ſingulos pertinet, firmiter faciant obſervari. Teſte R. apud Clarendon 10 die Sept. An. quarto decimo.

and exemplified in the Form of a Patent under our Seal which we uſe in *Ireland: and that you cauſe it to be ſent to every one of our Places in the ſaid Land, and every County of the ſame. And our Writs under our* ſaid Seal, *commanding our Officers of thoſe Places, and* Sheriffs *of the ſaid* Counties, *to cauſe* thoſe Statutes *to be* publiſhed *before them, and in all and ſingular their Articles which to every one of them appertain, to be* firmly obſerv'd. Teſte *the* King *at* Clarendon *the* 10*th of* Sept. *in the* 14*th of his Reign.*

In the ſame Roll there's another Writ of the ſame Form, dated at

Not-

Nottingham 20 *Nov.* ſending to the Chancellor of *Ireland*, the Stature of *York*, and another made befote at *Lincoln*.

Theſe Entries explain the general Tranſmiſſions; and ſhew what was to be done by the *Juſtice of Ireland*, in order to the publication of Laws made in *Parliaments* here, and ſent to him: but yet he had no need nor authority to call a *Parliament in Ireland*, for the publiſhing any Law made here, unleſs particularly required under the Great Seal of *England*.

Yet I cannot but admire the force of Mr. *M*'s Imagination, in framing an Argument, on that very Year that thoſe Statutes were ſent to *Ireland*, That the *Parliament of* England *did not take upon them to have any juriſdiction in* Ireland, because the King ſent his Letters-Patents to the Lord Chief Juſtice of *Ireland*, commanding that the *Iriſh* Natives might enjoy the *Laws of* England concerning Life and Member; to which *he had been moved*

Pag. 130.

Pag. 129.

moved by his Parliament at Westminster: which is as much as to say, they used no Jurisdiction because they did.

That after this time, that *King* and his *Parliament* exercised Jurisdiction over *Ireland*, appears by the *Ordinance* made for the State of *Ireland*, in a Parliament held on the *Octaves* of St. *Martin*, in the 17th of his Reign, and not of *E.* 1. for which I shall refer not only to what I before observed, which may give reasonable satisfaction that no such *Ordinance* could have been made in the 17th of *E.* 1. but to the Statute-Rolls, where this is entered among the Statutes of the time of *E.* 2. next above the Statutes of the time of *E.* 3. For maintaining the Jurisdiction of *England* that Statute of *Nottingham* ordains, "That "no Pardon for Felony be granted "by the Justice of *Ireland*, nor "Seal'd with the King's Seal there, "*without special Command of the* "*King, under some one of his Seals* "*of* England.

Rot. Stat. temp. E. 1. E. 2. E. 3. M. 30.

1. It

1. It being ſo manifeſt from undoubted Records, that the *Parliaments* of *England*, to the 17*th*. of *E*. 2. exerciſed an Authority in making *Laws* to bind *Ireland*, and that there was a plain and known Method for publiſhing thoſe Laws in *Ireland* by virtue of the Great Seal of *England*, I hope it will be allowed, that the Authority of Sir *Richard Bolton*'s Marginal Note in an Edition of the *Iriſh Statutes*, is not enough to induce Men to believe, that in the 13*th*. of *E*. 2. the Statute of *Merton*, 20*th*. *H*. 3. and ſome other Statutes made in *England*, were confirmed in *Ireland*, as being of no force there till then: And that no other Statutes made in *England* were of force in *Ireland*, till confirm'd there. Can any Man think that no part of the Statute of *Merton* was received for Law in *Ireland* till the 13*th*. of *E*. 2. particularly, will even Mr. *M*. believe, that notwithſtanding the Record 21. *H*. 3. of Tranſmiſſion of ſo much at leaſt of the Statute of *Merton* as relates to the *Limitation of Writs*, yet till the 13*th*. of *E*. 2. the deſcent in a

Anſwer to Sir Richard Bolton's *Marginal Note.*

P. 63. 64.

Vid. Sup.

Writ of Right was to be lay'd from an Anceſtor of the time of *H.* 1. which is 200 Years within One? Or does he think that the *Juſtice* of *Ireland*, for the time being, would not have been turn'd out, if not impeached, had he not cauſed the *Statutes of Weſt.* 1. and 2. and the *Statutes* of *Glouceſter*, to have been *Proclaimed* and *Obſerved* in *Ireland*, after they had been delivered to his Clerk in the Parliament at *Wincheſter?* and yet, if there be any thing in Mr. *M's* Quotation from Sir *Richard Bolton*, theſe were not received for *Laws* in *Ireland* till 13. *E.* 2.

Stat. *Merton* c. 7. De Narratione in brevi de recto ab anteceſſore a tempore *Hen.* Regis ſenioris.

Vid. Sup.

But ſince 'tis manifeſt that thoſe, and the other Statutes afterwards ſent over in the time of *E.* 1. and *E.* 2. muſt needs have been put in Execution there; if there were any ſuch Act of *Parliament* 13. *E.* 2. as Mr. *M.* takes for granted, upon no Authority in compariſon with the Records which I have cited; as to ſo much of any Acts of *Parliament* made here, as was not tranſmitted in the form above ſhewn, the Enacting them in in *Ireland* might be the firſt *Publica-*

tion

tion there: But as to what was contained in the *Patent* or *Charter* ſent thither, it could be no more than a *Declaratory Law*, or rather *Republication*.

Sometimes there might have been a ſpecial form of Tranſmiſſion, which as one means of publiſhing the Laws, might require their *Parliament* to meet to hear Laws read to them, which would bind them whether they conſented or no: or by Writ from hence, a Law or Charter paſs'd there might be ſo republiſhed. Thus 'twas beyond Contradiction 12. *H.* 3. when a Charter of King *John*'s, Sworn to by the *Iriſh*, was either ſent back, or republiſhed after it had lain there.

Mr. *M.* p. 52. and 53. *Rot. Clauſ.* 12. H. 3. *De legibus & conſ. obſervandis in Hib.*

Rex dilecto & fideli ſuo Ric. de Burgo Juſtic. ſuo Mandamus vobis firmiter, præcipientes quatenus certo die & loco faciatis venire coram vobis Arch. Ep. Ab. Pr. Com. & Bar. Mil. & libere tenentes, & Bal-

The King to his Beloved and Faithful Subject Richard de Burgh, *his Juſtice of* Ireland, *we command you, firmly requiring, that at a certain day and place, you cauſe to come before you the Arch-Biſhops, Biſhops, Abbots, Priors, Earls, & Barons, Knights, &*

livos singulor. Comitat. & coram eis publice legi faciatis cartam Dni. J. Regis Patris nri cui Sigillum sum appensum est quam fieri fecit & jurari à Magnatibus Hib. de legibus & consuetud. Anglicis observandis: & præcipiatis exparte nostrâ quod leges, illas & consuetudines in carta præd. contentas de cætero firmiter teneant. Et hoc idem per singulos Comitatus Hib. clamari faciatis & teneri, Prohibentes firmiter exparte nostrâ, & super forisfactur. nostram ne quis contra hoc Mandatum venire presumat.

Freeholders, and the Bailiffs of every County: and before them cause publickly to be read the Charter *of King* John *our Father, to which his Seal is affixed, which he caused to be made and sworn by the great Men of* Ireland; *concerning the observing in* Ireland *the Laws and Customs of* England. *And command them from us, that they, for the future, firmly keep and observe the Laws and Customs in the said Charter contained. And cause this same to be Proclaimed thro' every County of* Ireland, *firmly Prohibiting in our Name, and under our Forfeiture, that no person presume to the contrary of this our Command.*

All must agree that this Publication, in so formal a *Parliament*, and after

after that, in the ſeveral *Counties*, was not neceſſary to give Sanction to that Charter, for that it had before: And could be no more than a reminding them of their Duty, or a more ſolemn *Publication* of the *Law*. But that being a Law made here, was held ſufficient to make it a Law to the *Engliſh* in *Ireland*, and that, being tranſmitted thither under the Great Seal of *England*, it became a Rule to the Judges there, even in matters happening before the tranſmiſſion, appears by the following Precedents. *Rot. Clauſ.* 20. H. 3. m. 13.

A Man having been rediſſeis'd after the Statute of *Merton*, 20. *H.* 3. which had made a Rediſſeiſour lyable to Impriſonment. A Party, who had been ſo injured, applies to the King for Remedy, and as the Writ to the Juſtice of *Ireland* has it,

Ideo vobis mittimus ſub ſigillo noſtro conſtitutionem nuper factam coram nobis & Magnatibus noſtris Angliæ, de prædicto caſu & ſi-

Therefore we ſend you, under our Seal, the Conſtitution, lately made before us and our great Men of England, *concerning that Caſe, and other*

militer, de aliis articulis ad emendationem rni nri Mandantes quat. de *consilio* venererab. Pat. L. Dublin, Arch. constitutionem illam in Curiâ noſtra Hib. legi & de cætero firmiter obſervari, faciatis, & ſecund. eandem præd. querenti plene juſtitiam exhiberi faciatis.

Articles, for the Amendment of this our Kingdom, commanding, That with the Counſel of the venerable father L. Arch-Biſhop of Dublin, *you cauſe that Conſtitution to be read in our Court of* Ireland, *and for the future to be firmly obſerved, and that you fully do juſtice to the Complainant according to the ſame.*

In the Senſe, in which the Parliament 12. of *H.* 3. was to receive the Charter of King *John*, and the King's Court or Bench in *Ireland* was to receive the Statute of *Merton*, I will agree that *Parliaments* in *Ireland* may have received Laws in the time of *E.* 2. but there's no colour to believe that they then pretended to more, in relation to *Acts* of *Parliament*, ſent over to them at large under the Great Seal of *England*.

The

The Reign of E. 3. I may divide into Three Periods, 1. Before, 2. At, 3. After the main and moſt expreſs *Charter*, for a *Parliament* in *Ireland*, of any yet cited, or appearing.

Of Ireland's *being bound by Parliaments of* England, *in the Reign of* E. 3.

1. In the Statute Roll of the beginning of *E.* 3. there are ſeveral entries in Latin of this kind. "Mem. "that thoſe Statutes were ſent into "*Ireland* in the (a) *form of a Patent*, "with a certain Writ here following. But the entry of the Writ is ſometimes omitted, it being look'd on as matter of common form.

(a) In forma Patenti.

In the 2*d.* of that King, a Statute was made at *Northampton*, giving a command about *Fairs*, to all Sheriffs of *England*, and other Parts. In the 6*th.* a Statute was made, ſupplying the Defects of that Statute, and creating the Forfeiture of double the Value of what ſhould be ſold in any *Fair*, or *Market*, beyond the time limited for them in the Charters.

Vid. Raſtals Collect. ed. Anno 1572.

Et per ailours.

In the 6*th*. of that King, this last (*a*) *Statute*, and *all other Statutes made in his Reign to that time*, are sent, *in the form of a Patent*, to *Anthony de Lucy*, *Justice* of *Ireland*, requiring that those Statutes, and all the Articles therein contained, be Proclaimed in the King's *Land* of *Ireland*, as well *within Liberties*, as without; and that he should cause so much of them as concern'd the (*b*) *Justice*, and the *People of that Land*, to be *firmly kept*, and *observed*.

(*a*) Rot. Stat. Mem. quod istud Stat. cum Stat. precedentibus temp. Regis E. 3. Post conquestum missa sunt in Hiber. in formâ Patenti cum brevi seq.

(*b*) Et quantum ad vos & populum nostrum illar. ter. attinet firmiter teneri & observari fac.

A Statute (*c*) 11. of *E*. 3. provides, That, except the King and his Children, no Person, great nor small, within *England*, *Ireland*, and *Wales*, or so much of *Scotland* as was then *under the King's power*, should wear any Cloth, but what was made in *England*, *Ireland*, *Wales*, or such part of *Scotland*; upon pain of *Forfeiture* of the Cloth, and being *Punish'd at the King's pleasure*.

(*c*) Stat. 11. E. 3. c. 2.

And whereas Mr. *M*. according to the use which he makes of publications, in or by Parliaments in *Ireland*, of Laws made in *Parliaments* of *England*, would infer, that no Statutes

tutes made here againſt *Proviſors*, could be of force in *Ireland* till the 32*d*. of *H*. 6. when 'twas Enacted there, That all thoſe Laws made in *England*, as well as in *Ireland*, *be had and kept in force*; 'tis evident, that (*a*) *E*. 3*d*'s *Parliament* and his *Council* acting in *Parliament*, held, that there was no need of other publiſhing and enforcing thoſe Laws, than was uſual by virtue of the Great Seal of *England*. *P*. 68.

(*a*) Rot. Parl. 20. E. 3. Ut memini, parte tranſcripti circa idem tempus amiſſa.

The *Commons* (*b*) Petitioned, that the *Proviſions* and *Ordinances* made in the Parl. 17. of that King, concerning *Proviſions* and *Reſervations* from the *See* of *Rome*, be *affirmed by a Statute to endure for ever*: And particularly, (*c*) that if any *Arch-Biſhop*, or other Spiritual Patron, do not preſent within Four Months after Voidance, by a Man's accepting any Benefice from the *See* of *Rome*, the *Right of Patronage ſhould accrue to the King*: And they pray, (*d*) that *Commiſſions* and *Writs* be ſent to all *ports* of *England*, *Wales*, and *Ireland*, and other Places within every County, as there ſhould be occaſion, to Apprehend

(*b*) N. 33.

(*c*) N. 34.

Note, *This was a diſpoſing of Property.*

(*d*) N. 37.

hend all those who should carry any of the *Bulls*, *Process*, or *Instruments* then complained of.

(e) Resp. N. 39. The Answer in *French* is thus, (e) "'Tis *accorded* and *assented* by the "*King*, the *Earls*, *Barons*, *Justices*, "and other *Sages of the Law*, that "the Things above-written be done, "and in reasonable form, *according* "*to the prayer of the Commons.*

Upon which, there's no doubt but either a *Writ* was sent to *Ireland*, with this Act of Parliament, in the form of a *Charter*, to warrant Commissions for that purpose in *Ireland*; or otherwise, Commissions might issue from hence, to apprehend such Offenders as should be found there.

Stat. Stap. 27. E. 3. c. 1. & 3. The Statute of the Staple, 27. *E.* 3. taking notice of the Damages to the People of the *King's Realm*, and of *his* Lands of *Wales* and *Ireland*, because the *Staples* had been held out of the *said Realm*, and *Lands*, appoints places for the *Staple* in *Ireland*, as well as in *England* and *Wales*; and creates a *Forfeiture* of the Wool, and other Staple Commodities, which any *English*, *Irish*, or *Welsh*, should carry

carry out of the ſaid *Realm*, and *Lands*: with the like Penalty, if they ſhould receive Gold or Silver for them, elſewhere than at the reſpective *Staples*. Note, *The Wiſdom of that Law.*

At which Staples 'tis to be obſerved, that there were paid Duties and Cuſtoms, granted by *Parliament* in *England*.

Another *Statute*, of the ſame Year, appoints, That all *Wines* in *England*, *Ireland*, and *Wales*, be Gauged, on pain of *Forfeiture*, and further Puniſhment at *the King's pleaſure*. 27. E. 3. c. 7.

And but Two Years before, the *Statute of Treaſons*, which does not name *Ireland*, was made for a Law to the whole Realm, and for *Ireland* as part of it: But none of the King's Subjects in *Ireland* were within that Law, unleſs they were to be adjudged Subjects of the *Realm of England*. And yet this *Statute* is ordered to be *publiſhed* and *obſerved* in *Ireland*, as well as *England*, in this manner. Stat. 25. E. 3. Rot. Stat. M. 15. *For the Honour of God and of Holy Church, and the Amendment of his* Realm.

(a) "To the Sheriff of *Kent*, "greeting. We ſend you, *under our* "*Seal*, certain *Statutes*, *made in our* "*Parliament aſſembled at Weſtminſter*, "on (a) Rot. Stat. de temp. E. 1. E. 2. E. 3. M. 15. De Proclamatione Statuti.

" on the Feaſt of St. *Hillary* laſt paſt, " by *us*, the *Prelates*, *Dukes*, *Earls*, " *Barons*, and others of the *Common-* " *alty of our Realm of* England, to the " ſaid Parliament ſummoned: Com- " manding, that you cauſe the ſaid " *Statutes* to be read in your *full* " *County*; and that they be *firmly* " *obſerved, and kept. Teſte* the King " at *Weſtm.* the *6th.* day of *May.*

(*b*) Conſimiles literæ diriguntur Juſtic. Hib. mutatis mutandis ſub eâdem datâ. *P.* 161.

(*b*) " The *like Writs*, of the ſame " Date, are ſent to the *Juſtice of Ire-* " *land*, what ought to be changed " being changed.

But if the *Parliaments* of *England* had, or exerciſed any Juriſdicton or Authority over *Ireland* hitherto; at leaſt, 'tis to be thought, that 'twas all taken from 'em by a Charter of *E.* 3. part of which he tranſcribes out of Mr. *Prynn*, but for his ſatisfaction, I ſhall give him more of it from the Record, now to be ſeen in the *Tower*, 'tis a Charter of *R.* 2. of an *Ordinance* for the State of *Ireland*, reciting and confirming the Charter 31. *E.* 3. beginning thus:

Rot. Pat. 17. R. 2. p. 1. m. 34.

Quia

Quia ex frequenti fide dignor insinuatione accepimus, quod terra nra Hiberniæ, eccleſiaq; Hibernica, ac clerus & populus ejuſdem nobis ſubditus; ob defectum boni regiminis, ac per negligentiam & in curiam Miniſtror regior ibin, *tam major*, quam minor, hactenus turbati fuerint multipliciter & gravati: Marchiæq; terræ ipſius juxta hoſtes poſitæ, per hoſtiles invaſiones vaſtatæ, occiſis Marchionibus, & deprædatis, & eorum habitationibus enormiter *concrematis*, cæteriſq; coactis loca propria deſerere, quibuſdam videlicet ad hoſtes, cæteris ad loca extranea fugientibus. Diverſæq; partes dictar. Marchiar. taliter deſolatæ & de-

Becauſe from the frequent Relations of Perſons to be credited, we underſtand that our Land of Ireland, *and the* Iriſh *Church, and the* Clergy, *and* People ſubject to us, *thro'* defect *of* good *Government, and by the negligence and careleſneſs of the King's Officers there, both great and ſmall, has hitherto been manifoldly troubled and aggriev'd, and the* Marches *of that land plac'd againſt the Enemies waſted, the* Marches *being kill'd and deſpoil'd, & their Houſes enormouſly burnt, and the reſt being forc'd to forſake their habitations, ſome flying to the Enemies, and others to Foreign Parts. And divers parts of the ſaid* Marches *ſo deſolated and forſaken, have been poſſeſs'd by thoſe Enemies,*

The ſuppos'd Magna Charta *for Parliaments in* Ireland.

Rot. Stat. ordinatione pro Statu. Hibn.

relictæ, per hostes eosdem occupatæ: nostraq; & ejusdem terræ negotia incongruè & inutiliter, leges & approbatæ consuetudines minus debite observatæ, populo nro bonis & rebus suis contra justitiam, legem, & formam Statutor inde editor. diversimode spoliat. paxq; nostra læsa & *minime* custodita. Ac proditores, Latrones, & Malefactores, non sicut convenit castigati: Quorum malorum aliorumq; occasione, majora damna irreparabillia, evenire, quod absit, timentur, nisi præmissis opportunis *remediis occurrat.* Nos desiderantes utili regimini & quieti eorund. terræ & populi providere quæ *sequuntur: propterea, de assensu consilii nostri,* or-

mies, and the Affairs of us and that Land, are incongruously and unprofitably, and the Laws and approved Customs not duly observed; our People being in divers manners spoil'd of their Goods and things, contrary to Justice, Law, *and the form of* Statutes *in those cases provided: And our Peace is broken, and not in the least kept. And Traytors, Robbers, & Malefactors not punish'd as they ought: By occasion of which, and other Evils, greater irreparable Damages, which, God forbid, are feared as likely to happen, unless the Premises meet with opportune Remedies: We desiring to provide for the convenient Government & Quiet of that* Land, *&* People; *therefore we by the* consent of

our

dinanda duximus,& firmiter obſervanda. In prim.viz.volumus & præcipimus,quod ſancta Hibernica eccleſia,ſuas libertates, liber. & conſuetudines illæſas habeat,& eis liberè gaudeat & utatur. Item volumus & præcipimus quod noſtra, & ipſius terræ negotia & ardua, in conſiliis, per peritos conſiliarios noſtros, ac prælatos & magnates & quoſdam de diſcretioribus, & probatioribus hominibus de *Partibus Vicinis*, ubi ipſa conſilia teneri contigerit,*propter* hoc evocandos. In Parliamentis vero per ipſos Conſiliarios nros,ac Prelatos & Proceres alioſq; de terra noſtra proutmos, exigit,ſecundum juſtitiam, legem,conſuetudinē, & rationem, tra-

our Council, *have thought fit to provide theſe following Particulars to be* ordain'd, *and* obſerv'd : *In the firſt place, that the Holy* Iriſh Church *have its Liberties, & free Cuſtoms unhurt, and enjoy & uſe them freely. Alſo, we will and command, That the Affairs and* Arduous Matters *of us and that Land, in Councils by our Learned Counſellors, and Prelates, and great Men, and ſome of the more Diſcreet & Honeſt of the parts neighbouring upon the place, where thoſe* Counſels *ſhall happen to be held,* to be ſummoned for this purpoſe ; *But in the Parliaments by thoſe our Counſellours and Prelates, Peers, and others of our Land, as cuſtom requires, be according to Juſtice*

ctentur, deducantur, & fideliter, timore favore odio aut pretio poſtpoſitis, diſcutiantur, & etiam terminentur.

ſtice, Law, Cuſtom, and Reaſon, brought, and faithfully, Fear, Favour, Hatred or Price, being diſregarded, diſcuſſed, and alſo determined.

Then particular Proviſions are made here, notwithſtanding the Allowance of *Parliaments* there: Among which,

(a) per Juſticiar & Conciliumnoſtrum Hiberniæ.

1. That Men guilty of Broakage, ſhould be Puniſhed by the *Juſtice* and *Council* of *Ireland*, and *fined*, and *amoved* from their Offices; as ſhould ſeem reaſonable to the *Juſtice* and *Counſel*.

(b) Statut. & artic. per nos in Parliamentis & aliis magnis conſiliis ad utilitatem populi nri editor. & factor.

2. That no *Purveyance* be taken contrary to the form of (b) *Statutes* and *Articles*, *made* and *publiſhed*, for the profit of his People, in *Parliaments*, and other *great Councils*. But if there be any force in Mr. *M*'s way of Arguing, the Statutes againſt *Purveyors* were not binding to *Ireland* till 18. *H.* 6. when 'tis Enacted, "*By* "*a Statute made in* Ireland, *that all* "*the Statutes made in* England *againſt* "*the* Extortions and Oppreſſions of "*Pur-*

Purveyers are to be holden and kept in all points, and put in Execution in this *Land of Ireland.*

3. It provides againſt Robberies, and for Hue-and-Crys, according to the *Statute* of *Wincheſter.*

4. That no Pardon be paſs'd but in *Parliaments* or *Councils*, by the *aſſent* and *counſel* of the ſaid *Parliaments*, and *Counſellors.* And that there be no general Pardon: but that the Offences be ſpecified and expreſſed * *according to the tenor of a certain Statute*, by the King and his Council of *England*, publiſh'd, and ſent to *Ireland* to be obſerved.

* Juxta tenorem cujuſdam Statuti per nos & conſilium noſtrum Angliæ edit. & miſſi ad Hiberniam obſervand.

5. The Charter, taking Notice that *falſe intelligence* us'd to be ſent from *Ireland* to *England*, forbids it under *(b) grievous Forfeiture*, declaring, that if, for the future, the *Prelates*, the *great Men*, *Commonalty*, or *any other*, ſhould miſinform the *King and his Council*, they ſhould be duly Puniſhed.

(b) Sub gravi foris factura Prelati, magnates communitates aut quivis alii.

6. Whereas they us'd to Exhibit againſt one another, ſeveral ſcandalous and vexatious Libels and Bills, it provides, that they being reduced

to Writing, (*c*) be, under the Seal of the *Chancellor* for the time being, *transmitted* to the King's *Justice*, *Chancellor*, and *Treasurer* of *Ireland*, who are thereby impowered to do Justice: but this is by virtue *of the great Seal of* England.

(*c*) Sub sigillo Cancellar. pro-tempore existentis ad Justic. Cancel. & Thes. nostris Hibern. transmittantur.

7. It Impowers the (*d*) *Justice*, calling to him the *Chancellor* and *Treasurer*, with some *Prelates* and *Earls*, whom he shall know to be fit, or that they ought to be summoned, to determine the Differences between the *English* of *Irish* Extractions, and which were or should afterwards be of *English*.

(*d*) Vocatis ad se Cancel. & Thes. nris Hiberniæ cum quibusdam Prel. & Comitibus quos evocandos noverit.

8. It requires the *Justice* and his *Associates*, when there was any (*e*) *special Cause*, to certifie to the *King & his Council of England*, the Names of all Persons guilty, and their Offences.

(*e*) Ex certa causa sub sigil. Justic. & sibi associator.

Since Mr. *M.* having, as he fancied, (*a*) *clearly made it out*, that (*b*) for *Ireland* to be *bound by Acts of Parliament of England*, is against *several Charters of Liberties granted unto the Kingdom of Ireland*, thinks he had no need to *add* any other Authority than

(*a*) P. 161.
(*b*) P. 150.
P. 161.

than a piece of that Charter, of the ſubſtance of which I have given an Account, with all the diſtinguiſhing Expreſſions; I might well enough cloſe here, and leave it to himſelf to conſider, whether when a *Parliament* is granted, or allowed, to the Land of *Ireland*, in the fulleſt terms that ever it was in any *King*'s Reign, that can be ſhewn; there was not at the ſame time a full exercice of the Power of the *Crown* and *Kingdom of* England, in making Laws, and requiring the Execution of others made in *England*, without any deſire or expectation of a Ratification there?

And whether even their *Parliaments are not threatned, if they ſend falſe intelligence to* England?

For full proof that in this *Ordinance*, the Authority of the *Parliament* of *England* was retained and aſſerted, I muſt obſerve to Mr. *M.* that this Noble *Charter* to *Ireland*, is but according to the uſual Methods of Publiſhing Acts of Parliament, put under the great Seal, and thereby made a *Patent* or *Charter*: but 'twas an *Or-*

(a) Vid. Rot. Parl. temp. E. 1. E. 2. n. 3. m. 12. *dinance*, (a) or *Act*, *of Parliament*, for the *State* of *Ireland*, as may be seen by the Statute Roll.

Rot. Stat. temp. E. 1. m. 8. Stat. 36. E. 1. 3. After this Statute mentioning *Parliaments* in *Ireland*, the *Parliament* here exercised the same Authority in making *Ordinances* and *Laws* for *Ireland*, and the *King and his Council* held *Ireland* to be bound by those Laws, as part of the *Realm of* England.

A Statute made in the 36*th* of that King provides, that no Lord of *England*, nor *any other Person of the Realm*, except the *King* and *Queen*, take *purveyance* on pain of *Life* and *Member*; and takes from Mayors and Constables of *Staples*, all Jurisdiction in Criminal Causes: but I do not find any mention of *Ireland*, and yet that both King and Council judged, that the publishing them in *Ireland* would avail as much as the publishing them in *England*, appears by the Writ to the Sheriff of *Essex* and *Hertfordshire*, requiring him to publish the *Statutes* and *Ordinances* then made by the King, with the *common assent* of the *Prelates*,

M. 7. De Statuto proclamando.

Prelates, great Men, and *Commonalty,* in his (*a*) *full Parliament* at *Weſtminſter*; and to return the *Writ,* with an Account of the Execution of it to the King in his *Chancery.*

(*a*) In plena Parl. nro apud Weſtm.

(*b*) This Writ is teſted by the *King.*

(*b*) Per ipſum Regem & Conſilium.

And in (*c*) the ſame manner commands are ſent to the *Juſtice* of *Ireland.*

(*c*) Eodem modo mandatum eſt ſingulis vicecom. per Angl. [illegible] Dunelm Epiſc. Pr. Walliæ Com. Ceſtr. Rob. de Ha[illegible] Conſtab. Caſt. Dover & Cuſtod. 5 port. Juſtic. Hiberniæ.

But notwithſtanding this Tranſmiſſion to *Ireland* of Statutes made here, one of which is about *Purveyance,* which is at leaſt the Second of this kind made to bind *Ireland,* Mr. *M.* may if he pleaſes, hold, that this was not Law in *Ireland,* till (*d*) 18. *H.* 6.

But after all, I would intreat the favour of Mr. *M.* to inform me, whether, according to himſelf, ſuch Acts of Parliament in *Ireland,* were needful to Confirm Laws made here; when, if he puts a right conſtruction upon the Record above cited, * 9 *E.* 1. and of the Record, † 50 *E.* 3. of a Writ from hence for the Expences of *the Men of* Ireland,

(*d*) P. 68. *Of the fancy that the Iriſh had Repreſentatives choſen in* Ireland, *to be ſent from thence to be Members of Parliament here.*

* P. 95.

† P. 97.

who last came over to serve in Parliament in England; The Men of *Ireland* us'd to send their Representatives hither, to the making the Laws by which they were to be bound: till ‖ "*this sending of Representatives out of* Ireland *to the Parliaments of* England, *was found in process of time to be very troublesome and inconvenient.*

‖ P. 98.

But whatever Mr. *M.* may imagin in this matter, that sort of representation of *Ireland* in the *Parliaments* of *England*, was no more than they had in the time of *H.* 3. and have 'tis likely generally had to this day, of persons entrusted to sollicit the Affairs of *Ireland*, upon their numerous Petitions to the King, and his Council in Parliament; for which Receivers and Triers used to be appointed, or other matters of concern to them. But whether they were chosen by their * *Parliaments*, when they had them, or elsewhere, their Expences, as appears by the Record cited by Mr. *M.* were levied by Authority under the Great Seal of *England.*

Vid. Rot. Parl. de temp. E. 3.

* Vid. Rot. Pat. 5. R. 2. part 2. m. 19. *Their Parliament required to send Nuncios.* *P.* 97.

But

But I will ſhew a Record of the time of *H.* 3. when I will agree, that they had (*a*) *Nuntii, Meſſengers*, deputed, as 'tis likely, from a Parliament in *Ireland*.

(*a*) Rot. clauſ. 32 H. 3. m. 6. d. Rex Baronibus Hiberniæ.

H. 3. in his Writ, or Letter, to the Barons of *Ireland*, takes notice, that, by the (*b*) *advice of his People*, he had given a favourable anſwer to ſome of their requeſts, made known by perſons deputed from them. But becauſe thoſe perſons alledged, that their Inſtructions were to inſiſt upon all the particulars of their Requeſts; the King ſends a Precept to the *Juſtice* of *Ireland*, under the *Great Seal* of *England*, requiring him, as it ſeems, to ſummon a *Parliament*; for, he was carefully to open the matters before the *Barons* of *Ireland*, and to know what they would give for the Liberties they deſired.

(*b*) De noſtrorum conſilio. (*c*) Nuntii ex parte veſtrâ.

Ut eiſdem articulis vobis diligenter expoſitis, &c.

The *Juſtice* had no Authority to have thoſe Liberties ſetled in a *Parliament* there, but was to ſignify their Anſwer to the *King*; upon which the *King* would do what ſhould be fitting, without taking any Right from them.

Et nos præd. negotium ad noſtrum & veſtrum honorem effectui mancipare curabimus ſine ex heredatione veſtrâ.

That this was to be done in *Parliament* here, and that the *Messengers* from *Ireland* were no Members of that *Council* of the *King's People* which sent the Answer, is beyond dispute; nor is there colour to believe, that any of their *Deputies*, or *Representatives*, had in any King's Reign more to do here, than those of the time of *H.* 3. had..

P. 96. But surely no Man but Mr. *M.* will conclude, that such Instances, or the mention of the *Consent*, or *Petition* of the Irish in some Particulars, manifestly shew, that *the King and Parliament of* England, *would not enact Laws to bind* Ireland, *without the concurrence of the Representatives of that Kingdom.*

Since therefore I have proved to the contrary, from *H.* 2's first acquisition, till towards the latter end of *E.* 3. and Mr. *M.* declares, that he will *consider the more antient Precedents of English Statutes which particularly name* Ireland, and are *therefore said to be of force* in that Kingdom; I might rest here, did not Mr.

P. 85, 98.

M.

M. take notice of the Statute of the Staple, 2 *H.* 6. and the Reſolution of the Judges upon it, 1 *H.* 7. in ſuch a manner as makes it requiſite to be ſet in a truer Light.

Of the Statute of the Staple, 2 H. 6. and the Reſolution of the Judges upon it.

The Merchants of *Waterford*, purſuant to the Licence granted them by *E.* 3. and confirmed by *E.* 4. had carried Wool, contrary to the ordinary proviſion of the Statute 2 *H.* 6. which being ſeized by the Treaſurer of *Calais* as forfeited, part to the King, and part to himſelf as diſcoverer; The Merchants by Bill in the *Exchequer* here, pray reſtitution. 'Tis to be obſerved, that the Act upon which the Wool was ſeized, tho it creates a forfeiture of the value of Wool, Butter, Cheeſe, and other ſtaple Commodities, carried from *England*, *Ireland*, and *Wales*, to other parts than *Calais*, and gives the Informer a 4*th* of what ſhall be carried contrary to that Act, from any County of the *Realm*, makes no mention of *Ireland* as to the Informers ſhare; and therefore his Intereſt

Pais du Roialm.

reſt could bear no debate, unleſs *Ireland* had been included, and the *Counties* of *Ireland* were *Counties*, within the Realm of *England*.

P. 90. But Mr. *M.* ſays, the 2*d* Queſtion was, *Whether the King could grant his Licence contrary to the Statute, and eſpecially where the Statute gives half the Forfeiture to the Diſcoverer.* But he might have obſerved, that the Statute has an expreſs *ſaving of the King's Prerogative*, which goes thrô the whole, and certainly related to the *King*'s granting Licences to the contrary in ſome particular Caſes: Notwithſtanding which, 'twas the opinion of the Parliament the next year, that this ſaving was not ſufficient: and therefore the King, at the *grievous complaint of the Commons*, impowers the Chancellor of *England* to give Licences for *Butter* and *Cheeſe*, at his diſcretion.

Salve la Prerogative le Roy.

3 H. 6. c. 4.

As to the queſtion, Whether *Ireland* was bound by the Stat. 2 *H.* 6. Mr. *M.* pretends to tranſcribe *verbatim*, what relates to it in the *Year-Book*, 2 *R.* 3. The matter, as he obſerves, was brought

P. 90.

brought *before all the Judges* of *England* in the *Exchequer Chamber*; but after [*ibi*] he omits the word [*dicebatur*] it was ſaid, not *per curiam*, but at the moſt only by ſome Judg or Judges; and might have been only by one of the Counſel for the Merchants. Whoever then held that *Ireland* was not bound by that Act, might have ſpoken it in relation to the Informer, who could claim no ſhare of any Forfeiture incur'd from *Ireland*, unles the Counties of *Ireland*, were taken to be Counties within the Realm of *England*: But even as to this matter they were ſoon convinced of their miſtake, in thinking *Ireland* was not bound by that Statute. P. 91.

Mr. *M.* might have learn'd from the *Year-Book*, 1 *H.* 7. that this was ſo far from the reſolution of the Court 2 *R.* 3. that there was no Judgment, but the Bill fell upon the *demiſe* of that King; which till the Statute 1 *E.* 6. was a diſcontinuance of all real, perſonal, and mix'd Actions commenced in *any of his Majeſty's* 1 H. 7. Note. Ireland *not named, yet the Courts in* Ireland *certainly included.*

ſty's Courts, and *other Courts of Record.* And therefore 1 *H.* 7. the Suit was begun again, as if commenced in that King's Reign; and then the queſtion coming before all the Judges in the *Exchequer Chamber*, *Huſſey* the Chief-Juſtice, delivering the Judgment of the Court, declared, with the aſſent of the reſt of the Judges, that *Ireland* was bound by that *Act*, and I leave to Mr. *M.* to make it out, that this was *directly contrary to the Judges* opinion in the 2*d* of *R.* 3. or that they were *all poſitive*, *that within the Land of* Ireland, *the Authority of the Parliament of* England *will not affect them.*

1 H. 7. f. 3.

Come bill. fait en temps le Roy que ore eſt.

P. 92, 93.

If there had been any ſuch opinion, 'twas not delivered as the Judgment of the Court; and however, the Reſolution 1 *H.* 7. has ſetled the Point another way.

This Caſe is abridg'd, and the Reſolution receiv'd for Law by *Brook*, a Learned Judg in the Reign of *H.* 8. without any *query*, which is uſual where he doubted: his *tamen nota*, that *Ireland is a Kingdom by it ſelf*, and has

Vid. Brook. tit. Parl. ſec. 90.

has Parliaments of its own, implies no more than that this, tho objected 2 *R.* 3. was of no weight to alter that judgment; and is as much as to ſay, a Kingdom may be diſtinct from the Crown of a Kingdom to which it is annexed, and have Parliaments at home; and yet be govern'd by the *Statute Laws* of that other Kingdom as ſubordinate to it. And tho the naming that ſubordinate Kingdom in an Act of Parliament here, or the otherwiſe manifeſting an intention to bind it, is *no ſtep towards obtaining* a Parliamentary conſent in *Ireland*; yet 'tis towards the ſubmiſſion and acquieſcence of the People to thoſe Laws, by which they and their Forefathers had conſented to be governed.

P. 118. *Is* Ireland's *being named in an Engliſh Act of Parliament, the leaſt ſtep towards the obtaining the conſent of the people of* Ireland?

I may now leave it to Mr. *M.* to anſwer his own Queſtions, *Shall* Ireland *receive Charters of Liberties, and be no partakers of the freedoms therein contained? or do theſe words ſignify in* England *one thing, and in* Ireland *no ſuch thing?*

P. 157.

Nor need I much fear his terrible Expoſtulation, *Whether it be not againſt natural Equity and Reaſon, that a Kingdom regulated within it ſelf, and*

P. 155.

and having its own Parliaments, ſhould be bound, without their conſent, by the Parliament of another Kingdom? But I ſhould hope that he will admit it to be againſt *natural Reaſon*, to go away with a Concluſion, without ſome colour of proving the Premiſes; and therefore before he had laid it home (*a*) to Engliſh hearts to conſider, *Whether Proceedings only of thirty ſeven years ſtanding, ſhall be urged againſt a Nation, to deprive them of the Rights and Liberties which they enjoyed for five hundred years before*; He would have done well to have proved, that any one *Century*, or much leſs number of years, for theſe five hundred years & more, *Ireland* was ever, according to the terms of his own Queſtion, *regulated within it ſelf*; or, that 'tis a *Kingdom* of more than (*b*) one hundred and ſixty years ſtanding.

(*a*) P. 105.

(*b*) From 33 H. 8. An. 1542.

But it ſeems juſt * *thirty ſeven years ſince*, and never before, the *Rights* and *Liberties* which they had quietly *enjoyed* till then, were *invaded*, and *from that day to this have been conſtantly complained of.* 'Tis not to be ex-

* ſooneſt.

* P. 105.

expected, that a man who remembers ſo little of thoſe many Acts of Parliament made in *Ireland*, which might have moderated his aſſurance in this matter, ſhould keep in memory even his own conceſſions to the contrary; as where he grants, that the Parliaments of *England* did at leaſt claim a ſuperiority, before the 10*th* of *H.* 4. and 29 *H.* 6. P. 65, 66.

P. 68.

But then he ſays, *We have not one ſingle* Inſtance *of an Engliſh Act of Parliament, expreſly claiming this right of binding us; but we have ſeveral* Inſtances *of* Iriſh *Acts of Parliament expreſly denying this Subordination.* Object.

Anſw. 1. As to the expreſs claiming an Authority to do what is done, by virtue of an Authority always ſuppos'd; that's ſo far from an *Argument* againſt it, that it ſhews 'twas never call'd in queſtion.

2. No *Act* of *Parliament*, even in *Ireland*, can be ſhewn or pretended, denying the *Subordination*; not but that there might be ſome queſtion of the general binding, for want of due pub-

publication, either under the Great Seal of *England*; or of otherwiſe knowing the Intention of the Parliament of *England*: This, not the Authority, was the *Ambiguity* mentioned in the Statute of *Ireland*, 8 *E.* 4. in relation to a Statute 6 *R.* 2. which, without naming *Ireland*, alters a Law that did name it.

P. 79.

3. If there were ſuch *Act* of *Parliament* in *Ireland*, 13 *E.* 2. as 'tis ſuppoſed that a certain Judg in *Ireland* had ſeen, and that we might rely upon his Judgment in the ſenſe of it; receiving ſome Laws before that time made in *England*, and ſuſpending the execution of others; what I have ſhewn above from undoubted Records, may be enough to ſhew, that this would not in the leaſt weaken the Right of the Parliament of *England*, exerciſed before and after that time: And if there were another Statute, 10 *H.* 4. that no Laws ſhould be of force, unleſs they were allow'd and publiſhed by a Parliament in *Ireland*: This, tho 'tis a ſtrain farther than 'tis likely any Parliament of *Ireland* ever yet went, would

P. 63, 64.

would not neceſſarily infer any more, than that the Laws made in *England* ſhould be thus publiſhed, to the end they might be more generally known; not but that the intention of the Parliament of *England*, made known under the great Seal of *England*, was as much to be obeyed as their own Record ſhews that 'twas 29. *E.* 1. Vid. ſup. Davis f. 21. b.

The Authorities above-cited having manifeſted the ſeveral Titles which the *Crown* and *Kingdom* of *England* have to the Land of *Ireland*; and that from the 18*th.* of *H.* 2. at the lateſt, downwards as far as Mr. *M.* makes any controverſie, neither the *Iriſh Nation*, nor the *Engliſh* there, have been govern'd without the interpoſition of the *Parliament of England*; and that the *Parliament* of *Ireland* had all its Laws made here, or derived under Authority from hence, and that not from the *King's alone*, or the *Kings* and *their Privy Counſels*, but their Parliament; that the *Parliaments* of *Ireland* have had no Proviſion for their being hol- *An.* 1172.

den within any certain time, nor ever had Authority given them to act as *independent on the Parliament of England*; I may well conclude, that the right of the *Parliament* of *England* to bind *Ireland* by Laws made here, without any *Members* choſen for *Ireland*, is ſo far from being departed from, that 'tis *ſtrengthened* and *confirmed* by the *continual uſage* of the *Parliaments* of *England*, and *ſubmiſſion* of the *Parliaments and People of Ireland*: to which 'twill be needleſs to add the conſideration of the *ineſtimable Treaſure* ſpent in ſeveral Ages, for maintaining the *Engliſh Intereſt* there; and the late freeing it from an *Univerſal Inſurrection*, and *Uſurpation*.

His Politicks and ſeeming popular notions wrong, and miſapplyed.

4. Having us'd the proper means to convince Mr. *M.* by the true *argumentum ad hominem*, ſhewing that the chief Weapons which he uſes turn ſtrongly againſt himſelf; I need the leſs apprehend the natural force of his reaſoning upon dry Notions.

The

The right ſays he, which *England* may pretend to *for binding us by their Acts of Parliament, can be founded only on the imaginary Title of Conqueſt, or Purchaſe, or on Precedents and Matters of Record.* P. 4.

Wherein he admits, that *Precedents and Matters of Record*, may give a *Right*, which is neither by *Conqueſt* nor *Purchaſe*: and of this the Authors he refers to might ſatisfie him at large. I'll agree with him, that *on conſent depends the obligation of all humane Laws: inſomuch that without it, by the unanimous Opinions of all Juriſts no ſanctions are of any force.* P. 150, 151.

But do any of them ſay that the *conſent* is neceſſary to be *expreſt*, and that *immediate?* if it were the Sons could not be bound by thoſe Laws which their Fathers choſe, in reſtriction of *natural liberty*; and he might have obſerv'd, by his own Authors, and even in the Words cited by himſelf, that *approbation, not only* Men *give, who perſonally declare their aſſent, by Voice, Sign, or act; but alſo when others do it in* P. 152. *Hooker l. 1. ſec.* 10.

their names, by right originally at leaſt derived from them, as in Parliaments, *Councils*, &c.

He adds, *To be commanded we do conſent, when that Society whereof we are part, hath at any time before conſented.* Farther yet, whatever *Freedoms* the *Progeny* of the *Engliſh* and *Britains* now in *Ireland* claim with the *natural Born Subjects of* England, *as being deſcended from them*; 'tis certain, every Man here does not, as an *Engliſh-man*, claim to be a *Member of Parliament*, or to have a Voice in chuſing one: But there are many without this Privilege, who have been concluded by the *conſent of their Forefathers*, and their own; agreeing to ſtay within a Kingdom govern'd by ſuch Laws, to which they owe *Obedience* and *Submiſſion*, at leaſt as long as they will receive the benefit of them, and the *protection* which they aſſure.

This is the caſe of thoſe *Engliſhmen*, who chuſe to live in *Ireland*, under the *Protection of England*; without which the Proteſtants there

there could not have ſubſiſted, in any Age ſince the *Reformation*: and if the *Iriſh Natives* are not *conquer'd*, or the Right of *Conqueſt* over them, ought not to be carryed beyond the reparation of the *Damages* ſuſtained from them; or if P. 24. a *juſt conqueſt gets no power, but only over thoſe who have actually aſſiſted in that unjuſt force*; and if the P. 20. right of conqueſt *extends little farther, than over the Lives of the Conquer'd, but their poſterity can loſe no benefit thereby*: If an outragious and Brutal Enemy, may not be reſtrain'd from doing farther miſchief, by the taking from him that Power and Eſtate which would enable him to carry on his Deſigns; if the poſterity may not ſuffer in the conſequence of this, as the aggreſſor's property is become the *Conqueror*'s; if the Children may not be reſtrain'd from revenging their Father's Quarrel; let the *Engliſh* in *Ireland* look to it, how to juſtifie thoſe Poſſeſſions which they enjoy, by the help of the Crown and Kingdom of *Eng-* P. 21.

land: and if their Conſciences are ſqueamiſh, let them renounce their Right to the Lands of the Natives; but let them not bring in to queſtion the Right of *Engl.* to all Foreign Plantations: and let them never fear that equal Power here, to which a great part of the *Engliſh Nation* are reſigned, without any other kind of *conſent*, than the People of *Ireland* have given, to the Laws made in *England*, with intention to bind them, and be publiſhed there.

Vid. P. 143. *The People of* England *ought to be fully repay'd.*

As to his notion of *Purchaſe*; whenever *Ireland* will repay the value of the Purchaſe, that *ineſtimable* and *infinite* expence of *Men*, *Money*, *Victuals*, and *Arms*, which their own Parliaments own to have protected and ſupported them for ſeveral Ages; there's no great queſtion but *England* would be willing to leave 'em to their own ways.

Prerog.

Whereas he will ſuppoſe, that the Authority, which the *Lords* and *Commons* of *England* have exerciſed from Age to Age, in relation

tion to *Ireland*, would imply that the Parliament of *England* have claim'd *a coordinate Power with the King*; what is this but to argue, that in relation to *England* the *Parliament* is *coordinate*? however, as by Parliament he means only the *States* of the Kingdom; 'tis evident this inſinuation proceeds from his not obſerving the *Gothick conſtitution*, for which he would be thought very zealous: but might have known, that the *States of the Kingdom*, or the *ordines regni*, are thoſe who are entituled to meet the King in Perſon, or by *repreſentation*, in *his Parliaments*; where *the King is a diſtinct Body Politick* by himſelf: and, having the Supremacy, is manifeſtly above the *ordines regni*. P. 166.

But tho' the Head which Mr. *M.* raiſes, about the ſuppos'd injury to *Prerogative*, be only upon a pretended *coordinate* Power with the King, he carries it farther: and will have it, that for the *States of this Realm* to uſe an Authority, tho' *ſubordinate* to the King, to *introduce* P. 166, 167.

duce new Laws, or repeal old, eſtabliſh'd in Ireland, is a violation of the *Conſtitution of Ireland* under *Poyning's Act*, and of the *Prerogative of the Crown of England*; which he ſuppoſes to have been highly advanced by that Statute ſpeaking of the effect of which he ſays,

"The King's Prerogative is advanced to a much higher pitch "than ever was challeng'd by the "*King's in England*, and the *Parliament* of *Ireland* ſtands almoſt "*on the ſame bottom as the King* "*does in* England: *I ſay, almoſt* "*on the ſame bottom*; for the *Iriſh* "*Parliament* have not only a Negative (as the King has in *England*) to whatever Laws the *King* "and his *Privy Councils* of both, "or either *Kingdom*, ſhall lay before them; but have alſo a liberty of propoſing to the *King* "and his *Privy Council* here, ſuch "Laws as the *Parliament* of *Ireland* think expedient to be paſs'd: "which Laws being thus propoſed to the *King*, and put into "form, and tranſmitted to the *Parliament*

"*liament* here of *Ireland*, accor-
"ding to *Poyning's Act* muſt be
"paſs'd or rejected in the very
"words, even to a little, as they
"are laid before our *Parliament*;
"we cannot alter the leaſt *Iota*.

In this Narrative of their *Conſtitution* under that Law, he has omitted the mentioning what is very material, that the *Kings* anſwer to what they propoſe, is to be tranſmitted *under the great Seal of England*, and this is to be the *Licence and Authority* for the holding a *Parliament* in *Ireland*; and therefore their Acts of *Parliament* ſince that ſettlement, mention their being held *by Authority under the Great Seal of* England. 3. C. 4. P. M. Vid. etiam *Mr.* M. p. 160. *of the Stat.* 10. H. 7.

And there were two obvious ends and effects of this Law, as Mr. *M.* himſelf owns, 1. "*The pre-*
"*vention of any thing paſſing in the*
"*Parliament of* Ireland *ſurreptitiouſly, to the prejudice of the King or the Engliſh Intereſt of* Ireland: to which I muſt add, *or of* England. P. 160.

2. To

2. To take from the *Iriſh* there, all colour of pretence of holding *Parliaments* as an *independent Kingdom* by virtue of any Authority *within that Land.*

But how the King's P*rerogative in the Legiſlature* was advanced by this I do not underſtand: ſince long before, as well as notwithſtanding this ſuppoſed *Conſtitution* of an *Independent* P*arliament*, held by *Authority from the Great Seal of* England; the King had, and has, the P*rerogative*, not only to diſſolve the *Iriſh* P*arliaments* at his Pleaſure; but never to call any: which this *Gentleman* ought to fear, leaſt ſuch a claim as he makes might occaſion: and I would gladly know, what part of *their Conſtitution* provides for the *frequent holding of* P*arliaments in* Ireland: yet frequency of Parliaments in *England*, is an undoubted part of the *Fundamental Conſtitution* of the *Engliſh Monarchy.*

Farther, is it any *advance* to the P*rerogative in the Legiſlature*, that a Prince who has the full exerciſe of an

an *abſolute Legiſlature at home*, is only poſſeſſed of a Proviſion againſt having any attempt made, to the leſſening that his *ſettled* and *indubitable* Prerogative?

I muſt needs ſay this *Gentleman* has a way of arguing beyond my apprehenſion: for I cannot ſee the conſequence, how the *Prerogative* ſhould be advanced, if, as he will have it, the *Iriſh Parliament is put almoſt on the ſame bottom*, as that the *King ſtands* on in *England*: if it be ſo, I ſhould think it a leſſening of the *Prerogative*, to have an *Iriſh Parliament* almoſt *coordinate* with him: which Mr. *M.* is very fearful leaſt an *Engliſh Parliament* ſhould pretend to.

And I as little underſtand the reaſon he gives, why the *Parliament* of *Ireland ſtands almoſt upon the ſame bottom with the King*; *for* ſays he, they have not only a *Negative Vote* as the King has in *England*, but liberty to propoſe; yet the Laws muſt be paſs'd or rejected without alteration: This I take to be Foreign to the *bottom on which*

which, either the *King* or that *Parliament*, *stands*. If it be meant that they are, in a manner, as absolute in this *negative* and *liberty of purposing*, as the King is in *England*: since it relates only to Laws first desired from *Ireland*, either by the *Privy Council* or *Parliament* there; this *Constitution* of their *Parliament*, is so far from giving them a negative to the Laws pass'd in *England*, with declared intention to bind them in *Ireland*, that the Authority of *England* is wove into the very Constitution; and the Parliaments of *Ireland* own that Authority by their very Sitting and Enacting.

Mr. *M.* having represented that Constitution of their Parliaments, by which he thinks they *stand almost upon the same bottom as the King* did here, makes this strong assumption.

If therefore the *Legislature* of "*Ireland* stand on this foot in re-"lation to the *King*, and to the *Par-*"*liament* of *Ireland*; and the Parlia-

ment

"*ment of* England *do remove it* "*from this bottom, and aſſume it* "*to themſelves*, where the King's "Prerogative is much narrower, "and as it were reverſed (for there "*the King* has only a negative "Vote) I humbly conceive 'tis an "*encroachment on the King's* Pre-"*rogative.*

But he might conſider,

1. That as here by the *Parliament* he takes *Lords* and *Commons* without the *King*; he miſtakes the Fact in relation to their exercice of Power: for they do not *aſſume* to themſelves the Power of making any Law, but *with*, and *under the King.*

2. Neither do they, in the higheſt exercice of their Power, take from the *Iriſh* any thing allowed or directed by *Poyning's Law*, or any other *Conſtitution.*

3. They do but aſſert the *Chief Prerogative of the Crown of* England, by which, *due conſent being bad*, our Kings give Laws to this *Realm*, and all the Dominions belonging to it.

4. The

4. The ancient courſe of the Proceedings of the Parliaments of *England*, and their making all manner of Proviſions for the Government of *Ireland*, evince, that *Poyning*'s Law was rather an Indulgence to the *Engliſh* there, directing a Method for their maintaining the face of a *Legiſlature* among themſelves, than any reſtraint of Power before veſted in the *Parliaments of* England. And after all, this Law was never, as I take it, confirm'd by a Parliament of *England*. I muſt not here omit the conſequences which Mr. *M.* draws, from the *Parliament* of *England*'s
P. 170. pretending Power to impoſe any one Law upon *Ireland*.

1. That 'twill *naturally introduce* the Taxing them without their conſent.

2. That 'twill leave the People
P. 171. of *Ireland* in the *greateſt confuſion* imaginable: that they are not *permitted to know*, which is the *Supreme Authority* which they are *bound to obey, whether the* Parliament *of* England, *or that of* Ireland

land *or both*; *and that the uncertainty is or may be made a pretence for diſobedience.*

3. That 'twill be *highly inconvenient for* England; *may make the Lords and* People *of* Ireland *think they are not well uſed, and may drive them into Diſcontent.* Pag. 172.

Of the Conſequence in relation to Taxes.

1. Not here to conſider, how far the *Lordſhip* of the *Land* of *Ireland* may infer the Taxing it; if it ſhould refuſe to concur as it ought, to its own Preſervation: ſince the Law of neceſſity is no farther to be uſed, or conſidered, than while the neceſſity is apparent; I may ſay, that this is no conſequence to be apprehended, and that as the Right of Taxing, does not follow from the Right of Governing; and the Nature of the Government depends upon the firſt *Submiſſion*, and that *Interpretation* and *Confirmation* of it, which both the *governing* Nation, and the *governed* have put upon it: I muſt infer, with deference to the *National Authority*, that the Power which *England* has from the time of *H.* 2. claimed and exerciſed over *Ireland*,

Ireland, does not *naturally introduce the Taxing them without their con-*
Pag. 88,89. *Conſent*; yet, *if the Modern* Pre-*cedents of* Engliſh *Acts of Parliament alledg'd againſt Mr.* M's Notion, are *Innovations*, and only of
Pag. 105. *Thirty ſeven Years ſtanding*, depriving them *of the Rights and Liberties which they enjoyed for five hundred Years before, and which were invaded without their conſent*; ſuch an Invaſion would *naturally introduce the Taxing them without their Conſent.*

But ſince *England* uſes no Power which it has not generally uſed for theſe 500 Years, he ſhould avoid putting it to the neceſſity, or temptation to go farther.

Of the uncertainty what Authority to obey.

2. As to the ſuppoſed uncertainty where the *Supream Authority* reſides; he might have found that paſs'd diſpute in their *own Statutes*; and yet their Denyals could be of no weight, till they had abſolutely renounced the *Protection* of *England*; and indeed muſt be thought to have come in *ſurreptitiouſly*, without the due care of the *Gover-*

nours,

nours there, under the *Crown* of *England*; as well as without the notice of the Nation which has hitherto *protected* and *ſupported* them.

However, the Obedience which that Nation has from *H.* 2d's *Time*, pay'd to the Laws of *England*, after they had been duly publiſhed by Authority under the *Great Seal of* England, might have ſufficiently taught them where the *real Legiſlature* is veſted, and by them and their Forefathers acknowledged.

And ſince he admits that till a *Regular Legiſlature* was eſtabliſhed in *Ireland by the* Iriſh *voluntary Submiſſion to, and acceptance of the Laws and Government of* England, *we muſt repute them to have ſubmitted themſelves to the Statute Laws* made under *H.* 2. King *John*, and *H.* 3. and *their* Predeceſſors; If a Kingdom can have *no Supreme within it ſelf*, and a Subordinate Parliament is no Parliament as he would infer; he muſt thank himſelf for the Conſequence, that therefore they have neither a Kingdom, nor

Pag. 58.

Pag. 165.

a Parliament: and then by his own confession, they are as much to be govern'd by the Statutes now made in *England*, as their *Predecessors* were in the Times of King *John*, and *H.* 3.

Of the supposed Inconvenience to England.

3. As to the imagined Inconvenience to *England*, and almost threatned *Defection* from the Crown of the Kingdom, this *Gentleman*'s Undertaking makes it evident, that the Authority ought the rather to be exerted, to help some Men's Understandings, least such a shew of Arguments, and popular Flourishes, should encourage them to act as if they were a *compleat* Kingdom *within themselves*, with a King at the Head of them, during whose *Absence*, or professing a Religion contrary to that which the generality of the People profess, they might assert the Right of a Free *Kingd. subject to no Man's Laws*, but what they had consented to immediately, or permitted to grow into a Custom.

Since this Gentleman thinks he has silenced all the *Patriots of Liberty*

herty and Property, by his warm Appeals to them, and wheadling Notions of the *inherent*, and unalienable Rights of Mankind; and, howevre that he, has engag'd the *Crown* of his ſide, by adorning it with a *Prerogative* to govern *Ireland* without any relation to the *publick good* of that *Kingdom*, the *rightful* Poſſeſſion of which, carries *Ireland* as an Appendant to the *Imperial Crown*;

I muſt deſire him to conſider whether in this, as well as other Particulars before obſerved, the Charge of Inconſiſtency, will not fall upon him more juſtly than upon the Lord *Coke*.

A little to qualifie this heat, upon the ſuppos'd Injury to *Prerogative*, or common Right, I ſhall recommend theſe Heads to his ſerious Conſideration.

1. Whether he does not yield, that if there were a *Submiſſion* and *Conſent*, to ſuch Laws for Government, as *England* ſhould from time to time publiſh, to be obeyed in *Ireland*; this would be no injury

to the *Common Rights of Mankind?*

2. Whether his Tragical Exclamations, againſt thoſe who have acted contrary to what he takes to be the Right of the *Engliſh Proprietors* in *Ireland*, are not founded upon the Suppoſition; that thoſe *Acts of Parliaments* there, which have been made of late Days, with expreſs intention of binding *Ireland*, are *Innovations?*

3. Whether it being evident, that the Laws made here, have for ſo many Ages been enforced and ſubmitted to, as binding *Ireland*; an *Engliſh-man* in *Ireland* has more reaſon to complain of a Law made here, than a *Wealthy Merchant Free of no Corporation*, or any *Engliſh-man* whoſe Profit obliges him to a continuance in Foreign Parts?

4. Whether all the *Engliſh* Treaſure which has been ſpent, and Lives loſt for the Reduction of *Ireland*, were abſolutely at the Diſpoſal of the *Princes*, or directed by any of their Parliaments?

5. Whether a Law Book digeſted

ſted in the Time of *H.* 2. as 'tis ſuppos'd, by Publick Authority, does not ſhew, that in the Notion of that very Time, when Mr. *M.* ſuppoſes that the Right of the *Crown of* England *over* Ireland, was firſt acquired, there was, or might be *Treaſon againſt the Kingdom of* England, as well as againſt *the King*?

Vid. Glanvil de Seditione Regis vel Regni inter crimina leſæ Majeſtatis.

6. Whether the ſubmitting to take the *Engliſh Laws* from the *King*, implyed the taking them from him alone; unleſs he made Laws in *England*, without the Conſent of the *States* of the Kingdom of *England*?

7. Whether if the Engliſh *modus tenendi Parliamenta*, being, as Mr. *M.* thinks he has proved, tranſmitted to *Ireland*, by *H.* 2. ſtiling himſelf *Conqueror* of *Ireland*; after that, a Parliament of *Ireland*, held in that form, ſhould have Voted themſelves *independant upon the Parliament of* England; would not every Member have been liable to an *Impeachment for Treaſon againſt the King and Kingdom of* England?

8. If

8. If by Municipal Laws, or the Provision of the Common Law of *England*, in Cases not particularly express'd, the Son may justly suffer in the Consequence of his Father's Forfeiture for Treason; may not the same Reason hold for a *dependent Nation*?

9. Whether *Jurists*, universally agreed to be well skill'd in the Law of Nations, and even such as hold the *People* or *Community* to be the common Subject of Power, do not maintain, that as well the Dominion or Power vested in the People, as that which was in the Prince, may be acquired by another *Prince*, or *State*?

10. Whether they do not hold, that such acquisition made in one Age, and continued, lays an obligation upon Posterity to submit to it?

11. Whether they do not generally hold, that *Protection* is a good foundation of Power; and that this confirms the *Submissions* of *Publick Societies*, anciently made, to the Nature of that Government which

which they had ſubjected themſelves to, and to the governing Families?

12. Whether the *Protection* which the ſtronger Kingdom has continued to give to a weaker, is not at leaſt as forceable an Argument for *Obedience*, as that *protection* which any Nation does, or can receive from the *Prince* who is at the Head of it?

13. Whether our *Saviour*'s Obſervation upon the *Roman penny*, and St. *Paul*'s Epiſtle to the *Romans*, did not eſtabliſh a general Rule of Subjection?

14. Whether the *Jews*, and other Nations ſubject to the *Roman Empire*, had not much more plauſible pretences for caſting off the *Roman Yoak*, than the *Iriſh* have for diſowning the *Engliſh Legiſlature*?

15. Whether our Victorious and Heroical *Kings*, *E.* 3. and *H.* 5. thought it any diminution to the *Prerogative of the Crown of* England, for their Parliaments to be joyn'd with them, in giving Terms

Vid. Rot. Parl. temp. E. 3. & H. 5.

to

to those Parts of *France*, which were brought under the *Crown of* England, in Wars carried on at a National Expence?

16. Whether, notwithstanding his Concession, that every King of *England*, is *ipso facto* King of *Ireland*; the contrary does not follow from his Notion of *Prerogative*, of *Irelands* being a compleat Kingdom regulated within *it self*; and the Supposition that Acts of Parliament in *England* cannot bind *Ireland*, till confirmed by Parliament there?

17. Whether therefore according to his way of arguing, the Subjects of *Ireland*, who fought under King *William*, before he was recognized by a *Parliament* in *Ireland*, then served their *Lawful* and *Rightful King*.

18. Whether to dedicate to His present *Majesty*, a Book of such consequences as the direct Answer to these Questions would manifest, argues a due Opinion of His *Majesty*'s Judgment and Penetration?

FINIS.

ERRATA.

Pag. 5. *Lin.* 8. *for* have *r.* know, *ib. l.* 14. *r.* grievous, *ib. p.* 7. *l.* 9. *for* muſt *r.* might, *ib. l.* 18. *r.* you repreſent, *p.* 11. *l.* 26. *r.* and nature, *p.* 12. *l.* 23. *r.* firſt expedition, *p.* 29. *l.* 25. *for* will *r.* would, *p.* 41. *l. ult. for* none *r.* no Charter, *p.* 62. *l.* 18. *r.* and that, *p.* 63. *l.* 23. *r.* Juriſdiction which, *p.* 64. *l.* 25. *r.* from, *p.* 70. *l.* 5. *r.* would, *p.* 87. *dele* voluntary, *p.* 95. *l.* 11. *r.* H. 3. *p.* 104. *l.* 13. *for* the *r.* that, *p.* 108. *l.* 6. *r.* here, *p.* 112. *l.* 4. *r.* when, *p.* 115. *l.* 12. *dele* chief, *p.* 122. *l.* 20. *r.* carta, *p.* 133. *l.* 1. *r.* be then, *p.* 134. *l.* 1. *r.* there then, *ib. l.* 9. *for* me *r.* him, *p.* 139. *l.* 9. *for* 11th. *r.* 17th. *p.* 144. *l.* 1. *for* that *r.* tho', *p.* 165. *l.* 15. *r.* Precedent, *p.* 173. *l.* 21. *r.* Marchers, *p.* 174. *l. ult. dele* we, *p.* 184. *l.* 24. *r.* conſider only, *p.* 195. *l.* 19. *r.* expreſs, *p.* 200. *l.* 4. *r.* Poyning's, *p.* 201. *l.* 21. *and* 22. *r.* 1. As &c. *p.* 202. *l. ult. r.* who, with his States, *p.* 204. *l.* 23. *for* did *r.* does, *p.* 212. *l.* 9. *for* there *r.* here.